DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARING RULES

Filed with the secretary of state on September 29, 2023

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the executive director of the Michigan office of administrative hearings and rules by Executive Reorganization Order Nos. 2005-1, 2011-4, 2011-6, 2019-1, and 2019-3, MCL 445.2021, 445.2030, 445.2032, 324.99923, and 125.1998, and section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, as well as the following provisions applicable to specific practice areas:

Part 2: sections 32 and 49 of the tax tribunal act, 1973 PA 186, MCL 205.732 and 205.749.

Part 3: sections 2233 and 13322 of the public health code, 1978 PA 368, MCL 333.2233 and 333.13322; Executive Reorganization Order Nos. 1995-6, 1997-2, and 1998-2, MCL 324.99903, 29.451, and 29.461; and parts 31, 33, 41, 55, 63, 111, 115, and 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3134, 324.3301 to 324.3315, 324.4101 to 324.4113, 324.5501 to 324.5542, 324.6301 to 324.6321, 324.11101 to 324.11153, 324.11501 to 324.11554, and 324.20101 to 324.20142.

Part 4: section 7 of 1909 PA 106, MCL 460.557; section 2 of 1909 PA 300, MCL 462.2; section 5 of 1919 PA 419, MCL 460.55; sections 6 and 6a of 1939 PA 3, MCL 460.6 and 460.6a, section 6 of the motor carrier act, 1933 PA 254, MCL 479.6; and Executive Reorganization Order No. 2015-3, MCL 460.21.

Part 5: section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325, and section 23 of the highway advertising act of 1972, 1972 PA 106, MCL 252.323.

Part 6: section 210 of the insurance code of 1956, 1956 PA 218, MCL 500.210.

Part 7: section 16141 of the public health code, 1978 PA 368, MCL 333.16141.

Part 8: section 308 of the occupational code, 1980 PA 299, MCL 339.308, and Executive Reorganization Order Nos. 1996-1 and 2003-1, MCL 330.3101 and 445.2011.

Part 9: sections 6 and 9 of the social welfare act, 1939 PA 280, MCL 400.6 and 400.9; and sections 2226 and 2233 of the public health code, 1978 PA 368, MCL 333.2226 and 333.2233.

Part 10: section 6 of the social welfare act, 1939 PA 280, MCL 400.6; and Executive Reorganization Order Nos. 2015-4 and 2018-6, MCL 38.1174, and 722.110.

Part 11: section 46 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1046.

Part 12: section 12 of 1978 PA 390, MCL 408.482, and section 7 of the paid medical leave act, 2018 PA 338, MCL 408.967.

Part 13: section 213 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.213, and Executive Reorganization Order Nos. 1996-2, 2002-1, and 2003-1, MCL 445.2001, 445.2004, and 445.2011.

Part 14: section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.34, and Executive Reorganization Order Nos. 1996-2 and 2003-1, MCL 445.2001 and 445.2011.

Part 15: sections 7, 9a, and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27, sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and Executive Reorganization Order Nos. 1996-2 and 2011-5, MCL 445.2001 and 445.2031.

Part 16: section 2 of the state employees' retirement act, 1943 PA 240, MCL 38.2.

Part 17: section 15 of 1964 PA 287, MCL 388.1015; sections 1531, 1531i, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1531, 380.1531i, 380.1535a, and 380.1539b; and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994.

Part 18: sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703.

Part 19: section 6 of the corrections code of 1953, 1953 PA 232, MCL 791.206)

R 792.10101, R 792.10103, R 792.10104, R 792.10106, R 792.10107, R 792.10109, R 792.10110, R 792.10111, R 792.10114, R 792.10115, R 792.10119, R 792.10124, R 792.10126, R 792.10129, R 792.10131, R 792.10134, R 792.10201, R 792.10203, R 792.10205, R 792.10207, R 792.10209, R 792.10211, R 792.10213, R 792.10215, R 792.10217, R 792.10219, R 792.10221, R 792.10223, R 792.10225, R 792.10227, R 792.10229, R 792.10231, R 792.10233, R 792.10237, R 792.10239, R 792.10243, R 792.10245, R 792.10247, R 792.10249, R 792.10251, R 792.10253, R 792.10255, R 792.10257, R 792.10259, R 792.10261, R 792.10263, R 792.10265, R 792.10267, R 792.10271, R 792.10273, R 792.10275, R 792.10277, R 792.10279, R 792.10281, R 792.10283, R 792.10285, R 792.10287, R 792.10289, R 792.10402, R 792.10403, R 792.10404, R 792.10405, R 792.10406, R 792.10407, R 792.10408, R 792.10410, R 792.10413, R 792.10415, R 792.10417, R 792.10418, R 792.10421, R 792.10429, R 792.10430, R 792.10432, R 792.10433, R 792.10434, R 792.10435, R 792.10436, R 792.10439, R 792.10440, R 792.10441, R 792.10442, R 792.10443, R 792.10447, R 792.10448, R 792.11201, R 792.11202, R 792.11204, R 792.11205, and R 792.11903 of the Michigan Administrative Code are amended, R 792.10291, R 792.10293, R 792.10295, R 792.10297, and R 792.11209 are added, and R 792.10414 is rescinded, as follows:

PART 1: GENERAL

R 792.10101 Scope.

Rule 101. (1) These rules govern practice and procedure in administrative hearings conducted by the Michigan office of administrative hearings and rules under Executive Reorganization Order Nos. 2005-1, 2011-4, 2011-6, 2019-1, and 2019-3, MCL 445.2021, 445.2032, 324.99923, and 125.1998.

(2) Subject to prevailing practices and procedures established by state and federal statutes and the rules for specific types of hearings contained in parts 2, 3, and 5 to 19 of these rules, the rules in this part apply to all administrative hearings conducted by the hearing system, except hearings specifically exempted under Executive Reorganization Order Nos. 2005-1, 2011-4, and 2011-6, MCL 445.2021, 445.2030, and 445.2032.

(3) The rules in this part do not govern part 4 proceedings before the Michigan public service commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges, and R 792.10121, provisions for telephone and electronic hearings.

(4) The rules in this part do not govern proceedings before the employment relations commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges, and R 792.10121, provisions for telephone and electronic hearings.

R 792.10103 Definitions.

Rule 103. As used in these rules:

(a) "Act" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(b) "Adjournment" means a postponement of a hearing to a later date.

(c) "Administrative law judge" means any person assigned by the hearing system to preside over a contested case or other matter, including, but not limited to, a tribunal member, hearing officer, presiding officer, referee, or magistrate.

(d) "Administrator" means the person, commission, or board with final decision-making authority in a contested case, other than an administrative law judge or a tribunal member.

(e) "Agency" means a bureau, division, section, unit, board, commission, trustee, authority, office, or organization within a state department, created by the constitution, statute, or department action. Agency does not include an administrative unit within the legislative or judicial branches of state government, the governor's office, a unit having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers or nonprofit organization of insurer members created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(f) "Authorized representative" means an individual, other than an attorney, who has been given legal authority to represent a party in a proceeding.

(g) "Contested case" means a proceeding or evidentiary hearing in which a determination of the legal rights, duties, or privileges of a named party is made after an opportunity for a hearing.

(h) "Continuance" means a resumption of a hearing at a later date under these rules.

(i) "Date of receipt" means the date on which the hearing system receives a filing.

(j) "Department" means the department of licensing and regulatory affairs, unless otherwise specified as a separate constitutionally created state department.

(k) "Electronic signature" means an electronic symbol attached to or logically associated with a document or pleading and executed or adopted by a person with the intent to sign the document or

pleading. This may be a graphic image of the signature or text designated as a signature, such as "/s/ John Smith," "/s/ John Smith, Attorney," or "/s/ John Smith, Authorized Representative".
(l) "Hearing system" means the Michigan office of administrative hearings and rules created under the authority of Executive Reorganization Order Nos. 2005-1 and 2019-1, MCL 445.2021 and 324.99923.
(m) "Person" means an individual, partnership, corporation, association, municipality, agency, or any other entity.
(n) "Petitioner" means a person who files a request for a hearing.
(o) "Referring authority" means a court, state, or local political subdivision including, but not limited to, a department, agency, bureau, tribunal, mayor, city council, township supervisor, township board, village manager, or village board.
(p) "Respondent" means a person against whom a proceeding is commenced.

R 792.10104 Computation of time.

Rule 104. (1) In computing any period of time contemplated by these rules, the time in which an act is to be done is computed by excluding the first day, and including the last day, unless the last day is a Saturday, Sunday, or state legal holiday, in which case the period will run until the end of the next day following the Saturday, Sunday, or state legal holiday.

(2) Unless otherwise specified by the administrative law judge, rule, or statute, the date of receipt of a filing by the hearing system is the date used to determine whether a pleading or other paper has been timely filed with the hearing system.

(3) Except where otherwise specified, a period of time in these rules means calendar days, not business days.

(4) Unless otherwise specified by the administrative law judge, rule, or statute, the date on which a document is considered filed is governed by R 792.10109(3).

R 792.10106 Administrative law judge; authority; disqualification and recusal; substitution; communications; conduct.

Rule 106. (1) The administrative law judge shall exercise the following authority when appropriate:

(a) Conduct a full, fair, and impartial hearing.

(b) Take action to avoid unnecessary delay in the disposition of proceedings.

(c) Regulate the course of the hearing and maintain proper decorum. An administrative law judge may exercise discretion with regard to the exclusion of parties, their attorneys, or authorized representatives or other persons, and may adjourn hearings when necessary to avoid undue disruption of the proceedings.

(d) Administer oaths and affirmations.

(e) Provide for the taking of testimony by deposition.

(f) Rule upon offers of proof.

(g) Rule upon motions and examine witnesses.

(h) Limit repetitious testimony and time for presentations.

(i) Set the time and place for continued hearings.

(j) Fix the time for the filing and service of briefs and other documents to the hearing system and the other parties.

(k) Direct the parties to appear or confer, or both, to consider clarification of issues, stipulations of facts, stipulations of law, settlement, and other related matters.

(l) Require the parties to submit filings, including, but not limited to, proposed prehearing orders and legal memoranda.

(m) Examine witnesses as deemed necessary by the administrative law judge to complete a record or address a statutory element.

(n) Grant applications for subpoenas and subpoena witnesses and documents to the extent authorized by statute.

(o) Issue proposed orders, proposals for decision, and final orders and take any other appropriate action authorized by law.

(p) On motion, or on an administrative law judge's own initiative, adjourn hearings, except where statutory provisions limit adjournment authority.

(2) An administrative law judge may be recused, or disqualified, from a case based on bias, prejudice, interest, or any other cause provided for in this rule.

(3) An administrative law judge shall disclose to the parties any known conditions listed in subdivisions (a) to (e) of this subrule and may be recused or disqualified from any proceeding in which the impartiality of the administrative law judge might reasonably be questioned, including, but not limited to, instances in which any of the following exist:

(a) The administrative law judge has a personal bias or prejudice concerning a party, a party's authorized representative, or a party's attorney.

(b) The administrative law judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

(c) The administrative law judge served as an attorney in the matter in controversy.

(d) An attorney with whom the administrative law judge previously practiced law serves as the attorney in the matter in controversy.

(e) The administrative law judge has been a material witness concerning the matter in controversy.

(4) An administrative law judge who would otherwise be recused by the terms of this rule may disclose on the record the basis of disqualification and may ask the parties and their attorneys to consider, out of the administrative law judge's presence, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties agree that the administrative law judge should not be disqualified, the administrative law judge may preside over the proceeding. The agreement must be incorporated into the hearing record.

(5) Any party seeking to disqualify an administrative law judge shall promptly move for the disqualification after receiving notice indicating that the administrative law judge will preside or upon discovering facts establishing grounds for disqualification, whichever is later. A motion under this section must be made in writing and accompanied by an affidavit setting forth specific allegations that demonstrate the facts upon which the motion is based.

(6) If the challenged administrative law judge denies the motion for disqualification, a party may move for the motion to be decided by a supervising administrative law judge.

(7) If an administrative law judge is disqualified, incapacitated, deceased, otherwise removed from, or unable to continue a hearing or to issue a proposal for decision or final order as assigned, another administrative law judge must be assigned to continue the case by the hearing system director or the hearing system director's designee. To avoid substantial prejudice or to enable the administrative law judge to render a decision, the newly assigned administrative law judge may order a rehearing on any part of the contested case. This subrule applies whether the substitution occurs before or after the administrative record is closed.

(8) Once a case has been referred to the hearing system, no person may communicate with the assigned administrative law judge relating to the merits of the case without the knowledge and consent of all other parties to the matter, except as follows:

(a) The administrative law judge may communicate with another administrative law judge relating to the merits of cases at any time or the hearing system staff as provided by sections 71 to 87 of the act, MCL 24.271 to 24.287.

(b) The administrative law judge may, when circumstances require, communicate with parties, attorneys, or authorized representatives for scheduling, or other administrative purposes that do not deal with substantive matters or issues on the merits, provided that the administrative law judge reasonably believes that no party will gain procedural or tactical advantage as a result of the communication. The administrative law judge shall make provision to promptly notify all other parties of the substance of the communication and allow an opportunity to respond.

(9) If an administrative law judge receives a communication prohibited by this rule, the administrative law judge shall promptly notify all parties, attorneys, or authorized representatives of the receipt of such communication and its content.

(10) The most current publication entitled "American Bar Association, A Model Code of Judicial Conduct for State Administrative Law Judges" may be referenced, as applicable, in proceedings conducted under these rules.

R 792.10107 Attorneys and authorized representation; service; withdrawal and substitution.

Rule 107. (1) A party may appear in person, by an attorney, or by an authorized representative where permitted by law. To appear on behalf of a party, an attorney or authorized representative must file a notice of appearance, unless the first appearance is made on the record in a proceeding. A pleading, motion, or other document signed and filed by an attorney or authorized representative on behalf of a party is a notice of appearance by the attorney or authorized representative. After a notice of appearance has been filed or made on the record, all papers in a proceeding must be served on the person who appeared or on the person whose name appears on the notice of appearance or filing, at the address identified by the person or on the appearance or filing, and is service on the represented party. Parties must notify the hearing system of any changes in address and phone number within 7 days of the change.

(2) Upon notice, an attorney or authorized representative who has entered an appearance may withdraw from the case. Timely notice of withdrawal or substitution must be provided to all parties, their attorneys or authorized representatives, and the administrative law judge.

R 792.10109 Filings with the hearing system.

Rule 109. (1) Documents and pleadings may be filed in a hearing system proceeding by mail, personal delivery, facsimile, or electronically using a hearing system-approved electronic filing system, if available.

(2) Except as otherwise approved by the administrative law judge, all filings must be legible with a minimum 12-point font for body text and no less than 10-point font for footnote text and, unless filed electronically using a hearing system-approved electronic system, on 8-½ by 11-inch paper.

(3) Documents and pleadings filed by mail, personal delivery, or facsimile and received by the hearing system after 5 p.m. eastern standard time are considered filed on the next business day. Documents and pleadings submitted using a hearing system-approved electronic filing system, or

by email when specifically authorized under subrule (6) of this rule, are considered filed on the same business day if filed at or before 11:59 p.m. eastern standard time.

(4) Submission by facsimile is allowed only if the following conditions are met:

(a) A cover sheet is included that contains the following:

(i) Case name.

(ii) Case number.

(iii) Document title.

(iv) The sender's name, telephone number, and facsimile number.

(v) The total number of pages contained in the submission, including the cover sheet.

(b) The facsimile consists of 20 pages or less.

(c) The party immediately sends a facsimile copy of the filing to all other parties when a facsimile number is available. If a facsimile number is not available, the party must serve the submission to all other known parties pursuant to the requirements of these rules.

(5) If a document or pleading must be signed, it must contain a handwritten signature or an electronic signature.

(6) Documents and pleadings will not be accepted by email unless specifically authorized by the administrative law judge, administrative law manager, or pursuant to an order issued by the executive director of the hearing system.

(7) The responsibility for excluding or redacting personal identifying information from all documents or physical evidence used at hearing, filed with or offered to the hearing system, rests solely with the parties and their attorneys. The hearing system is not responsible for or required to review, redact, or screen documents at the time of filing for personal identifying information, protected or otherwise, whether filed electronically or on paper. A party may request that the hearing system redact its personal identifying information contained in a previously filed document or physical evidence by submitting a written request stating with specificity the information in question.

R 792.10110 Service of documents and other pleadings; manner of service; date of service; statement or proof of service.

Rule 110. (1) A party must serve all documents and pleadings filed in a hearing system proceeding on all other parties. Unless otherwise directed by the administrative law judge, the parties are the persons named in the case caption. If an appearance has been filed by an attorney or authorized representative of a party, documents and pleadings must be served on the attorney or authorized representative.

(2) Service between the parties may be completed electronically if the parties agree to service by email, subject to all of the following:

(a) The agreement for service by email must set forth the email addresses of the parties or attorneys that agree to email service.

(b) Parties and attorneys that have agreed to service by email must immediately notify all other parties if the party's or attorney's email address changes.

(c) Documents served by email must be in a file format that prevents alteration of the document contents.

(d) A document served by email sent on a business day is deemed served on a party on the same business day that the email is sent if sent at or before 11:59 p.m. eastern standard time. A document served by email sent on a non-business day is deemed served on the next business day.

(e) The parties need not file a copy of the email service agreement, as provided by rule 2.107 of the Michigan court rules, unless a dispute arises as to service by email.

(f) The party serving a document by email must maintain an archived record of all emails through which service was made.

(3) The hearing system may serve documents on the parties, the parties' attorney, or the parties' authorized representative by mailing a copy, as that term is defined in subrule (9) of this rule.

(4) When service of any document or pleading is completed by United States mail, commercial delivery service, or inter-departmental mail, the date of service is the date of deposit with the United States post office, other carrier, or inter-departmental mail delivery system.

(5) When service of any document or pleading is completed by hand, facsimile, or a hearing system-approved electronic filing system, the date of service is the date of receipt as indicated by a date stamp or other verifiable date on the document or pleading.

(6) The person or party serving documents on other parties pursuant to this rule must file with the hearing system a written statement of service stating the method or manner of service, the identity of the server, the names of the parties served, and the date and place of service. When service is completed electronically, the statement of service must also state the email addresses of the sender and the recipient. Failure to file the statement of service does not affect the validity of service.

(7) If a question concerning proper service is raised, the person or party claiming to have effectuated proper service bears the burden of proof. When service is made by mail, a return post office receipt may be proof of service. When service is made by private delivery service, the receipt showing delivery is sufficient proof of service. When service is made in any other manner authorized by these rules, verified proof of service must be made by filing an affidavit of the person or party serving the documents. The administrative law judge assigned to the matter shall resolve disputes with respect to proper service.

(8) The administrative law judge assigned by the hearing system may decline to consider any document or pleading not served pursuant to these rules.

(9) As used in this rule, "mailing a copy" means 1 or more of the following:

(a) Enclosing documents in a sealed envelope addressed to the person to be served and placing the envelope into an intra-departmental mail delivery system or depositing it with first-class postage fully prepaid in the United States mail or other commercial delivery service.

(b) Emailing the documents to the parties, parties' attorney, or the parties' authorized representative at the email address on file with the hearing system.

(c) Sending the documents by facsimile to a facsimile number on file with the hearing system.

(d) Leaving a copy of the document at the residence, principal office, or place of business of the person or agency.

R 792.10111 Notice of hearing.

Rule 111. If the notice of hearing is issued by the hearing system, the notice must contain, at a minimum, all of the following:

(a) The address and phone number, if available, of the hearing location, or other information, such as remote access codes, necessary to participate in the hearing.

(b) A statement of the date, hour, place, and nature of the hearing.

(c) A statement that all hearings will be conducted in a barrier-free location and in compliance with the Americans with disabilities act, 42 USC 12101 to 12213, provisions. The notice must inform the parties that if accessibility is requested, such as braille, large print, electronic or audio

reader, information that is to be made accessible must be submitted to the hearing system at least 14 business days before the hearing. If the hearing system is unable to accomplish the conversion before the date of the hearing, an adjournment must be granted. If a party fails to provide information for conversion pursuant to this rule, the administrative law judge may deny adjournment.

(d) A statement of the legal authority and jurisdiction under which the hearing is being held.

(e) The action intended by the agency, if any.

(f) A statement of the issues or subject of the hearing. On request, the administrative law judge may require the agency or a party to furnish a more definite and detailed statement of the issues.

(g) A citation to these rules.

R 792.10114 Prehearing conferences.

Rule 114. (1) The administrative law judge may hold a prehearing conference to resolve matters before the hearing.

(2) A prehearing conference may address matters including, but not limited to, any of the following:

(a) Issuance of subpoenas.

(b) Factual and legal issues.

(c) Stipulations.

(d) Requests for official notice.

(e) Identification and exchange of documentary evidence.

(f) Admission of evidence.

(g) Identification and qualification of witnesses.

(h) Motions.

(i) Order of presentation.

(j) Scheduling.

(k) Alternative dispute resolution.

(l) Position statements.

(m) Settlement.

(n) Any other matter that will promote the orderly and prompt conduct of the hearing.

(3) At the discretion of the administrative law judge, all or part of a prehearing conference may be recorded.

(4) Prehearing conferences may be conducted in person, by telephone, by videoconference, or other electronic means at the discretion of the administrative law judge.

(5) When a prehearing conference has been held, the administrative law judge may issue a prehearing order that states the actions taken or to be taken with regard to any matter addressed at the prehearing conference.

(6) If a prehearing conference is not held, the administrative law judge may issue a prehearing order to regulate the conduct of proceedings.

(7) If a party fails to appear for a prehearing conference after proper notice, the administrative law judge may proceed with the conference in the absence of that party.

(8) A party who fails to attend a prehearing conference is subject to any procedural agreement reached, and any order issued, with respect to matters addressed at the conference.

R 792.10115 Motion practice.

Rule 115. (1) All requests for action addressed to the administrative law judge, other than during a hearing, must be made in writing. Written requests for action must state specific grounds and describe the action or order sought. A copy of all written motions or requests for action must be served pursuant to these rules.

(2) Except as otherwise approved by the administrative law judge, all motions must be filed at least 14 days before the date set for hearing unless other scheduling provisions prevent compliance with this timeline or the need for the motion was not reasonably foreseeable 14 days before the hearing.

(3) A response to a motion may be filed within 7 days after service of the written motion unless otherwise ordered by the administrative law judge or unless other scheduling provisions prevent compliance with this timeline. Either party may request an expedited ruling.

(4) All motions and responses must include citations to supporting authority and, if germane, supporting affidavits or citations to evidentiary materials of record.

(5) The administrative law judge may require oral argument on a motion or allow or deny oral argument based on a request from a party.

(6) A request for oral argument on a motion must be made in writing.

(7) Notice of oral argument on a motion must be given before the date set for hearing. At the discretion of the administrative law judge, a hearing on a motion may be conducted in whole or in part by telephone or other electronic means. The administrative law judge must rule upon motions within a reasonable time or hold the motion in abeyance.

(8) Multiple motions may be consolidated for oral argument.

(9) A party may withdraw a motion for oral argument at any time.

(10) Any relief granted by the administrative law judge in response to a motion must be incorporated in a written order, the proposal for decision, or the final order.

R 792.10119 Location.

Rule 119. (1) The hearing system may schedule a hearing at any location or by remote means, including telephone, teleconference, or other platform, unless location is dictated by statute or controlling rules.

(2) A party may request a change of venue or means of access, including, but not limited to, in person, telephonic, or video. For good cause shown, the request may be granted at the discretion of the administrative law judge.

R 792.10124 Presentation.

Rule 124. (1) A party may make or waive a closing statement. If a party elects to make a closing statement, the administrative law judge may order closing arguments to be submitted in writing and may require written proposed findings of fact and conclusions of law.

(2) Unless otherwise directed by the administrative law judge, the party having the burden of proof shall go forward first with presentation of evidence. A party may submit rebuttal evidence.

(3) Except as otherwise provided for by statute or rule, the complaining party has the burden of proving, by a preponderance of the evidence, the basis for the requested relief or action.

R 792.10126 Evidence to be entered on record; documentary evidence.

Rule 126. (1) Evidence in a proceeding must be offered and made a part of the record if admitted by the administrative law judge. Other factual information must not be used as the basis of the decision of the administrative law judge, unless parties are provided notice. Documentary evidence

may be received in the form of a copy or excerpt, if the original is not readily available. Unless otherwise allowed by the administrative law judge, a party offering documentary evidence must ensure that it is received by the administrative law judge, with a copy sent to each opposing party, not less than 7 days before the hearing except where the notice of hearing is issued less than 30 days before the hearing. If the notice of hearing is issued less than 30 days before the hearing, documentary evidence must be received by the administrative law judge and a copy provided to each opposing party no later than 1 business day before the scheduled hearing, unless the administrative law judge allows otherwise for good cause shown. Upon timely request, a party must be given an opportunity to compare a copy with the original, when available. Documentary evidence may be incorporated by reference if the materials are available for examination by the parties.

(2) If materials and exhibits offered, but not admitted, are made part of the record for purposes of appeal, they must be clearly marked by the administrative law judge as "rejected".

(3) Exhibits that are rejected as duplicates of material already contained in the file or record, must be returned to the party offering the exhibits, and must not be included in the record on appeal.

(4) Exhibits introduced into evidence, but later withdrawn, are not part of the record on appeal.

R 792.10129 Summary disposition.

Rule 129. (1) A party may move for dismissal of or judgment. The motion may be based on 1 or more of the following grounds:

(a) No genuine issue of material fact.

(b) A failure to state a claim for which relief may be granted.

(c) A lack of jurisdiction or standing.

(2) If the administrative law judge has final decision authority, the motion may be determined without first issuing a proposal for decision.

(3) If an administrative law judge does not have final decision authority, the judge may issue an order denying the motion without first issuing a proposal for decision or may issue a proposal for decision granting the motion.

(4) If the motion for summary disposition is denied, or if the decision on the motion does not dispose of the entire action, then the action must proceed to hearing.

(5) In hearings held under the occupational code, 1980 PA 299, MCL 339.101 to 339.2677, the administrative law judge may not issue an order of summary disposition.

R 792.10131 Proposals for decision.

Rule 131. (1) In the absence of authority conferred by statute, administrative rule, or delegation to issue a final decision, the administrative law judge who conducted the hearing or who has read the complete record shall issue a proposal for decision.

(2) When the final decision is made by a person who did not conduct the hearing or review the record, the decision, if adverse to a party other than the agency itself, shall not be made until a proposal for decision is served on the parties and an opportunity is given to each party adversely affected to file exceptions and present written arguments to the person who will make the final decision. On review of a proposal for decision, the final decision authority shall have all of the powers that it would have if it had presided at the hearing.

(3) The proposal for decision shall be issued by the administrative law judge who conducted the hearing or who has read the complete record and shall contain findings of fact and conclusions of law, including rationale for conclusions reached.

(4) A proposal for decision becomes a final decision in the absence of the timely filing of exceptions or review by an agency with final decision authority.

R 792.10134 Default judgments.

Rule 134. (1) If a party fails to participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceeding without participation of the absent party. If a party fails to participate in a proceeding, the administrative law judge may issue a default order or other dispositive order.

(2) Within 7 days after service of a default order, the party against whom it was entered may file a written motion requesting the order be vacated. If the party demonstrates good cause for failing to participate in a scheduled proceeding after a properly served notice or failing to comply with an order, the administrative law judge may reschedule, rehear, or otherwise reconsider the matter as required to serve the interests of justice and the orderly and prompt conduct of proceedings.

PART 2. TAX TRIBUNAL
SUBPART A. GENERAL PROVISIONS.

R 792.10201 Scope.

Rule 201. (1) Parts 1 and 2 of these rules govern practice and procedure in all contested cases before the tribunal. To the extent there is a conflict between the rules in parts 1 and 2, the rules in part 2 govern.

(2) The rules in part 2 are known and referred to as the "tax tribunal rules" and may be cited as "TTR."

R 792.10203 Definitions.

Rule 203. As used in this part:

(a) "Costs" means costs incurred in litigating a contested case before the tribunal including attorney fees.

(b) "Default hearing" means a hearing at which the defaulted party is precluded from presenting any testimony, offering any evidence, and examining the other party's witnesses.

(c) "Entire tribunal" means the hearing division of the tribunal other than the small claims division.

(d) "MCL" means the Michigan Complied Laws.

(e) "MCR" means the Michigan Court Rules of 1985.

(f) "Mediation" means a process in which a mediator facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement.

(g) "MRE" means the Michigan Rules of Evidence.

(h) "Personal identifying information" means date of birth, social security number or national identification number, driver's license number or state-issued personal identification card number, passport number, and financial account numbers.

(i) "Pleading" means the petition and the answer.

(j) "Property tax appeal" means any contested case relating to real and personal property assessments, valuations, rates, refunds, allocation, equalization, or any other contested case brought before the tribunal under the state's property tax laws and special assessments.

(k) “Rebuttal evidence” means evidence limited to refuting, contradicting, or explaining evidence submitted by an opposing party.

(l) “Referee” means a contractual small claims hearing referee whose powers are limited to those provided by the tribunal.

(m) “Signed” means that a document contains a written signature or electronic signature placed on or applied to the document. For purposes of this subrule, an electronic signature includes a typewritten signature or a graphic representation of a written signature.

(n) “Small claims division” means the residential property and small claims division created by section 61 of the tax tribunal act, MCL 205.761.

(o) “Tax tribunal act” means the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779.

(p) “Tribunal” means the Michigan tax tribunal.

(q) “Valuation disclosure” means documentary or other tangible evidence in a property tax contested case that a party relies upon in support of the party’s contention as to the true cash value of the subject property or any portion thereof and contains the party’s value conclusions and data, valuation methodology, analysis, or reasoning.

(r) The terms defined in and determined under the tax tribunal act and in the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, have the same meanings when used in these rules.

R 792.10205 Payment of fees; waiver of fees; refund of fees.

Rule 205. (1) Tribunal fees must be paid separately for each contested case in cash or by check, money order, or other draft payable to the order of “State of Michigan.” Payments must be mailed or delivered to the tribunal. Tribunal fees may be paid by credit card through the tribunal’s e-filing system when a petition or motion is e-filed.

(2) If a party shows by written request that they are receiving any form of means-tested public assistance, the payment of fees by that party is waived. As used in this subrule, “means-tested public assistance” includes any of the following:

(a) The food assistance program offered through this state.

(b) Medicaid.

(c) The financial independence program offered through this state.

(d) Women, infants, and children benefits.

(e) Supplemental Security Income through the federal government.

(f) Any other federal, state, or locally administered means-tested income or benefit.

(3) If a party shows by written request that they are represented by a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation, or by a law school clinic that provides services based on indigence, the payment of fees by that party is waived.

(4) If a party shows by written request that they are unable because of indigence to pay fees, the payment of fees by that party is waived. As used in this subrule, “indigence” means living in a household whose gross household income is under 125% of the federal poverty level.

(5) The tribunal shall promptly enter an order either granting or denying a request to waive fees indicating the reason for the granting or denying of the request. If the request is denied, the order must include a statement that the party shall, if they wish to preserve the filing date of a petition, pay the fees required for the filing of the petition within 21 days after the entry of the order or as otherwise ordered by the tribunal.

(6) The tribunal may, upon written request, refund fees paid to the tribunal that were not required to be paid when the petition or motion that is the subject of the request was filed.

(7) Requests to waive fees or refund fees must be submitted on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form. There is no fee for the filing of either request.

R 792.10207 Signatures.

Rule 207. (1) If a document is required to be signed by these rules, the document must be signed by the filing party or, if the party is represented by an attorney or authorized representative, by the party or the party's attorney or authorized representative.

(2) The signature of a party, attorney, or authorized representative constitutes certification by the signer that all of the following apply:

(a) The signer has read the document.

(b) That to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

(c) The document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

R 792.10209 Costs.

Rule 209. (1) The tribunal may, upon motion or its own initiative, award costs in a contested case, as provided by section 52 of the tax tribunal act, MCL 205.752.

(2) If costs are awarded, a bill of costs must be filed with the tribunal and served on the opposing parties as ordered by the tribunal. A party may file a response objecting to the bill of costs or any item in the bill within the time period ordered by the tribunal. Failure to file an objection to the bill of costs within the applicable time period waives any right to object to the bill.

(3) The bill of costs must state separately each item claimed and the amount claimed, and be verified by affidavit of the party or the party's attorney or authorized representative. The affidavit must state that each item is correct and was necessarily incurred.

R 792.10211 Service of decisions, orders, and notices.

Rule 211. Service of decisions, orders, and notices entered in a contested case must be made on each party at that party's last known mailing or email address, unless an attorney or authorized representative is appearing on behalf of that party. If an attorney or authorized representative is appearing on behalf of that party, then service must be made on the attorney or authorized representative at their last known mailing or email address, as provided in section 52 of the tax tribunal act, MCL 205.752. Service by mail or email on an attorney or authorized representative constitutes service on their office.

R 792.10213 Appeals.

Rule 213. An appeal from a decision of the tribunal must be taken in accordance with section 53 of the tax tribunal act, MCL 205.753. If an appeal is taken to the court of appeals, then the appellant shall file a copy of the claim of appeal or application for leave to appeal with the tribunal together with the appropriate filing fee, as provided in R 792.10217 and R 792.10267.

SUBPART B. MATTERS BEFORE ENTIRE TRIBUNAL

R 792.10215 Scope.

Rule 215. The rules in subparts A and B of this part govern practice and procedure in all contested cases pending in the entire tribunal and are known as the entire tribunal rules. If an applicable entire tribunal rule does not exist, MCR 1.101 et seq, MCL 24.271 to 24.287, and MCL 24.321 to 24.328, govern.

R 792.10217 Fees.

Rule 217. (1) Fees must be paid to tribunal for the filing of all petitions and motions in each contested case. If a petition or motion is filed by mail, delivery, or through the tribunal's e-filing system, the fee must be paid upon filing. If a motion is filed by email, the fee must be paid within 14 days after the date of the emailed filing. For purposes of this rule, a motion includes a stipulation for entry of a consent judgment.

(2) Except as otherwise provided in this rule or as ordered by the tribunal, the filing fees are, as follows:

(a) The fee for filing property tax appeal petitions:

(i) Allocation, apportionment, and equalization contested cases, $250.00.

(ii) Valuation contested cases, based on the amount in dispute as follows:

(A) $100,000 or less, $250.00.

(B) $100,000.01 to $500,000, $400.00.

(C) More than $500,000, $600.00.

(b) The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest amount in dispute, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00. For purposes of this subrule, the contiguous parcels must be located in a single assessing unit.

(c) The fee for filing a motion to amend a property tax appeal petition to add a subsequent year assessment is equal to 50% of the fee provided in subdivision (a)(ii) of this rule for the assessment to be added.

(d) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is $250.00.

(e) The fee for filing a property tax appeal petition contesting the classification of property is $150.00.

(f) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is $100.00.

(g) The fee for filing a motion to withdraw a petition or motions requesting a telephonic, video conference, or in-person prehearing conference or status conference or video conference or in-person hearing for the moving party or parties is $0.00.

(h) The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is $0.00.

(i) The fee for the filing of a stipulation agreeing to participate in mediation is $0.00.

(j) The fee for the filing of all other motions is $50.00.

(k) The fee for the filing of multiple motions in a single document is the largest fee that would be charged if each motion is filed separately.

(3) As used in this rule, "amount in dispute" means the difference between the assessed value, as established by the board of review, and the state equalized value contended by the petitioner or the

difference between the taxable value, as established by the board of review, and the taxable value contended by the petitioner, whichever is greater.

R 792.10219 Commencement of contested cases; motions to amend to add a subsequent tax year; election of small claims division and entire tribunal; other filings; notice of no action.

Rule 219. (1) A contested case is commenced by mailing, delivering, or submitting through the tribunal's e-filing system a petition with the appropriate filing fee within the time period prescribed by statute.

(2) A motion to amend a property tax appeal petition to include an assessment in a subsequent tax year is considered filed within the time period prescribed by statute if it has been mailed, delivered, or submitted through the tribunal's e-filing system with the appropriate filing fee on or before the expiration of the applicable time period.

(3) If a petitioner files a defective petition and the tribunal is unable to determine the division of the tribunal in which the petitioner intended to file the contested case, the petitioner is presumed to have elected to have the matter heard in the small claims division. If a motion to transfer is filed after the scheduling of the hearing and the motion is granted by the tribunal, the moving party shall pay all tribunal filing fees and any reasonable costs that the tribunal determines may be incurred by the opposing party as a direct result of the transfer.

(4) Pleadings, motions, documents, and exhibits are considered filed upon mailing or delivery. Pleadings, motions, documents, and exhibits may also be submitted through the tribunal's e-filing system. Pleadings, motions, documents, and exhibits submitted through the tribunal's e-filing system are considered filed upon successful submission of the pleading, motion, document, or exhibit. Unsuccessful submissions through the tribunal's e-filing system due to a system-wide outage are considered timely if filed on the following business day. Pleadings, motions, other than a motion to amend a property tax appeal petition to include an assessment in a subsequent tax year, documents, and exhibits may be submitted by email to the email address designated by the tribunal. Pleadings, motions, documents, and exhibits submitted by email to the email address designated by the tribunal are considered filed when the email is received by the tribunal.

(5) A submission by mail is considered filed on the date indicated by the United States Postal Service postmark on the envelope containing the submission. A submission without a postmark or with an illegible postmark is considered filed on the date the submission is received by the tribunal. A submission by commercial delivery service is considered filed on the date the submission is given to the commercial service for delivery to the tribunal as indicated by the receipt date on the package containing the submission. A submission by personal service is considered filed on the date the submission is received. A submission through the tribunal's e-filing system by 11:59 p.m. on a business day is considered filed on that business day. A submission by email to the email address designated by the tribunal by 11:59 p.m. on a business day is considered filed on that business day. A submission on a Saturday, a Sunday, or a holiday is considered filed on the following business day, as provided by section 35a of the tax tribunal act, MCL 205.735a.

(6) If a motion filed by mail, delivery, or through the tribunal's e-filing system is not accompanied by the required filing fee, the tribunal shall issue a notice of no action. If a motion is submitted by email to the email address designated by the tribunal and the required filing fee is not paid within 14 days after the date the motion was emailed, the tribunal may issue a notice of no action or an order holding the party that filed the motion in default. If the required filing fee is paid within 14 days after the issuance of the notice of no action, action shall be taken on the motion based on the

date that the motion was originally submitted to the tribunal. If the required filing fee is not paid within 14 days after the issuance of the notice of no action, no action shall be taken on the motion.

(7) If a motion or document, other than a petition, is not accompanied by a required proof of service, the tribunal shall issue a notice of no action. If the required proof of service is filed within 14 days after the issuance of the notice of no action, action shall be taken on the motion or document based on the date the motion or document was originally submitted to the tribunal. If the required proof of service is not filed within 14 days after the issuance of the notice of no action, no action shall be taken on the motion or document.

(8) If a motion and brief or response and brief does not comply with the written motion practice requirements indicated in R 792.10225(5), the tribunal shall issue a notice of no action. If a notice of no action is issued because a motion and brief does not comply with the written motion practice requirements and a motion and brief complying with those requirements is not filed within 14 days after the issuance of the notice of no action, no action shall be taken on the motion. If a notice of no action is issued because a response and brief does not comply with the written motion practice requirements and a response and brief complying with those requirements is not filed within 14 days after the issuance of the notice of no action, action shall be taken on the motion based on the motion and brief only.

R 792.10221 Amended pleadings; content of pleadings, motions, and documents; service of pleadings, motions, and documents.

Rule 221. (1) With the exception of amendments to petitions or answers that correct typographical or transpositional errors, a petition or answer may only be amended by leave of the tribunal. Leave to amend must, with the exception of motions to amend to include a prior or subsequent tax year assessment in a property tax appeal, be freely given when justice so requires. Amendments to include a prior or subsequent tax assessment in a property tax appeal must be filed as required under section 35a of the tax tribunal act, MCL 205.735a, and section 53a of the general property tax act, 1893 PA 206, MCL 211.53a.

(2) An amended petition or answer correcting only typographical or transpositional errors must be filed by the date established by the tribunal for the filing and exchange of prehearing statements with proof demonstrating the service of the amended petition or answer on the opposing parties. If the tribunal determines that an amendment addresses more than typographical or transpositional errors, the tribunal shall issue a notice of no action.

(3) All pleadings and motions filed with the tribunal must contain all of the following information:

(a) The caption “Michigan Tax Tribunal.”

(b) The title of the appeal.

(c) The docket number of the appeal after it is assigned by the tribunal.

(d) A designation showing the nature of the pleading or motion.

(4) All documents, other than pleadings and motions, must contain both of the following:

(a) The docket number of the appeal after it is assigned by the tribunal.

(b) A designation showing the nature of the document.

(5) Unless otherwise ordered by the tribunal, the petition must note the docket number assigned by the tribunal and be served as provided for in this rule within 45 days after the issuance of the notice of docket number. Failure to serve the petition with noted docket number as required by this subrule or a tribunal order may result in the dismissal of the contested case.

(6) A petitioner filing a property tax appeal petition other than a property tax petition contesting a special assessment, who is not a unit of government, shall serve the petition with noted docket number in the following manner:

(a) Mailed by certified mail or delivered by personal service to the following officials at their last known address:

(i) The certified assessor or board of assessors of the unit of government that established the assessment being appealed.

(ii) The city clerk, in the case of cities.

(iii) The township supervisor or clerk, in the case of townships.

(b) Mailed by first-class mail or delivered by personal service to the following officials at their last known address:

(i) The county equalization director for any county affected.

(ii) The county clerk for any county affected.

(iii) The secretary of the local school board.

(iv) The treasurer of this state.

(7) A petitioner filing a property tax appeal petition other than a property tax appeal petition contesting a special assessment, who is a unit of government, shall serve the petition with noted docket number by certified mail or by personal service on the party or parties-in-interest with respect to the property or properties at issue. The petitioner shall also serve the petition with noted docket number by first-class mail or by personal service on the following officials at their last known address:

(a) The county equalization director for any county affected.

(b) The county clerk for any county affected.

(c) The secretary of the local school board.

(d) The treasurer of this state.

8) A petitioner filing a property tax appeal petition contesting a special assessment shall serve the petition with noted docket number by certified mail or personal service on the clerk of the unit of government, authority, or body levying the special assessment being appealed at the clerk's last known address.

(9) A petitioner filing a non-property tax appeal petition shall serve the petition with noted docket number by certified mail or personal service on either of the following officials at their last known address:

(a) The treasurer of this state, if the tax was levied by the department of treasury.

(b) The clerk of the local unit of government, if the tax was levied by the local unit of government.

(10) Proof of service must be submitted within 45 days after the issuance of the notice of docket number. The proof of service must be signed and acknowledge the receipt of the petition with noted docket number that is dated and also signed by the persons authorized under these rules to receive it or state the manner of service. Failure to submit the proof of service may result in the dismissal of the contested case.

(11) Answers, motions, and documents filed with the tribunal must be served concurrently by first-class mail or personal service on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service must be made on the attorney or authorized representative. Answers, motions, and documents filed with the tribunal may also be served by email utilizing the email addresses identified in the pleadings unless

notification of a change in an email address is submitted to the tribunal and all parties in advance of the service.

(12) Proof of service must be signed and submitted with all answers, motions, and documents establishing through a written acknowledgment receipt of the answer, motion, or document that is dated and also signed by the person authorized under these rules to receive it or a written statement indicating the manner of service. Failure to submit the proof of service may result in the holding of a party or parties in default, as provided by R 792.10231.

R 792.10223 Appearance and representation; adding and removing parties; amicus curiae.

Rule 223. (1) An attorney or authorized representative may appear on behalf of a party in a contested case by signing the petition or other document initiating the participation of that party in the contested case or by filing an appearance. The tribunal may require an attorney or authorized representative to provide a written statement of authorization signed by the party on whose behalf the attorney or authorized representative is appearing.

(2) If a petition or other document initiating the participation of a party is signed by an attorney or authorized representative, that petition or document must state the name of the party on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and email addresses and telephone number. If there is no firm, the attorney or authorized representative shall state the attorney or authorized representative's mailing and email addresses and telephone number. The attorney or authorized representative shall also promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that information.

(3) An appearance filed by an attorney or authorized representative must state the name of the party on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and email addresses and telephone number or, if there is no firm, the attorney or authorized representative's mailing and email addresses and telephone number. The attorney or authorized representative shall also promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that information.

(4) An attorney or authorized representative may withdraw from a contested case or be substituted for by stipulation or order of the tribunal. The stipulation must be signed by the party, the party's attorney or authorized representative, and the new attorney or authorized representative, if any. If the stipulation is signed by a new attorney or authorized representative, the new attorney or authorized representative shall also submit an appearance, as provided by this rule. If the stipulation is not signed by a new attorney or authorized representative, the stipulation must indicate the mailing and email addresses for the service of notices, orders, and decisions and the telephone number for contacting that party.

(5) In the absence of an appearance by an attorney or authorized representative, a party is considered to appear for themselves. If a party is appearing for themselves, that party shall promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that party's mailing and email addresses and telephone number.

(6) Parties may be added or removed by order of the tribunal on its own initiative or on motion of any interested person at any stage of the contested case as justice requires.

(7) The tribunal may, upon motion, order a person or, upon motion or its own initiative, order a state or local governmental unit to appear as amicus curiae or in another capacity as the tribunal considers appropriate.

R 792.10225 Motions.

Rule 225. (1) All requests to the tribunal requiring an order in a contested case, including stipulated requests, must be made by written motion that is signed and filed with the tribunal and accompanied by the appropriate fee, unless otherwise ordered by the tribunal. Motions may be amended or supplemented by leave of the tribunal only, and leave to amend or supplement shall be freely given as justice requires.

(2) Motions must be served concurrently on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service must be made on the attorney or authorized representative.

(3) Written responses to motions, other than motions for which a motion for immediate consideration has been filed or motions for reconsideration, must be signed and filed within 21 days after service of the motion, unless otherwise ordered by the tribunal.

(4) Written responses to motions, for which a motion for immediate consideration has been filed must be signed and filed within 7 days after service of the motion for immediate consideration, if the motion for immediate consideration includes a statement verifying that the moving party has notified all other parties regarding the filing of the motion for immediate consideration and indicating whether those parties will be filing a response to the motion or motions for which the motion of immediate consideration is being filed. If the motion for immediate consideration does not include that statement, written opposition to those motions must be filed within 21 days after service of the motion for immediate consideration, unless otherwise ordered by the tribunal.

(5) Written motion practice is limited to the motion and a brief in support of the motion and a single response to the motion and a brief in support of the response. Except as ordered by the tribunal, the combined length of any motion and brief or response and brief may not exceed 20 pages doubled-spaced with 1-inch margins and 12-point type, exclusive of attachments and exhibits. Case quotes and footnotes in a brief may be single-spaced. A brief in support of a motion or response, if any, must be filed concurrently with the motion or response.

R 792.10227 Petitions.

Rule 227. (1) A petition must be signed and contain a clear and concise statement of facts, without repetition, upon which the petitioner relies in making its claim for relief. The statement must be made in separately designated paragraphs. The contents of each paragraph must be limited, as far as practicable, to a statement of a single fact. Each claim must be stated separately when separation facilitates the clear presentation of the matters set forth.

(2) A petition may not cover more than 1 assessed parcel of real or personal property, except as follows:

(a) A single petition involving real property may cover more than 1 assessed parcel of real property if the real property is contiguous and within a single assessing unit.

(b) A single petition involving personal property may cover more than 1 assessed parcel of personal property located on the same real property parcel within a single assessing unit.

(c) A single petition involving personal property may cover personal property located on different real property parcels if the personal property is assessed as 1 assessed parcel of personal property and is located within a single assessing unit.

(d) A single petition may include both real and personal property, if the personal property is located on the real property parcels at issue within a single assessing unit.

(3) Each petition must contain all of the following information:

(a) The petitioner's name; legal residence or, in the case of a corporation, its principal office or place of business; mailing address, if different than the address for the legal residence or principal place of business; email address; and telephone number.

(b) The name of the opposing party or parties.

(c) A description of the matter in controversy, including the type of tax, the years involved, and all of the following information, if applicable:

(i) The parcel numbers of the properties being appealed; the properties' addresses; the county in which the properties are located; whether the properties are contiguous; and, for each personal property parcel being appealed, the parcel number of the real property on which that personal property is located and whether the personal property statement was filed and, if so, when the statement was filed.

(ii) The present use of the property, the use for which the property was designed, and the classification of property.

(iii) Whether the matter involves any of the following:

(A) True cash value.

(B) Taxable value.

(C) Uniformity.

(D) Exemption.

(E) Classification.

(F) A combination of the areas specified in subparagraphs (A) to (E) of this paragraph.

(G) Special assessment.

(H) Non-property taxes, interest, and penalties.

(iv) For multifamily residential property, whether the property is subject to governmental regulatory agreements and a subsidy and the type of subsidy involved.

(d) A statement of the amount or amounts in dispute, including the following, as applicable:

(i) A statement indicating whether there is a dispute relative to the value of an addition or a loss in contested cases involving a dispute as to a property's taxable value.

(ii) A statement of the portion of the tax admitted to be correct, if any, in non-property tax contested cases and a copy of the assessment, decision, or order being appealed attached to the petition.

(iii) A statement as to whether the matter in controversy has been protested and, if applicable, the date of the protest in true cash value, taxable value, uniformity, exemption, classification, or special assessment contested cases.

(e) The relief sought.

(4) The petition must be sworn to and comply with applicable statutes in equalization, allocation, and apportionment contested cases.

R 792.10229 Answers.

Rule 229. (1) The respondent shall file an answer or responsive motion within 28 days after the date of service of the petition with noted docket number. Failure to file an answer or responsive motion within 28 days may result in the holding of the respondent in default and may, if the respondent fails to timely cure the default, result in the conducting of a default hearing, as provided in R 792.10231.

(2) The answer must be signed and advise the petitioner and the tribunal of the nature of the defenses. The answer must also contain a specific admission or denial of each material allegation in the petition. If the respondent is without knowledge or information sufficient to form a belief as

to the truth of an allegation, then the answer must so state and the statement has the effect of a denial. If the respondent intends to qualify or deny only a part of an allegation, then the answer must specify so much of the allegation as is true and qualify or deny only the remainder. In addition, the answer must contain a clear and concise statement of every ground on which the respondent relies and has the burden of proof. Paragraphs of the answer must be designated to correspond to paragraphs of the petition to which they relate.

(3) An answer may assert as many defenses as the respondent may have against the claims raised by the petitioner. A defense is not waived by being joined with 1 or more other defenses. All defenses not asserted in either the answer or by appropriate motion are waived, except for either of the following defenses:

(a) Lack of jurisdiction.

(b) Failure to state a claim upon which relief may be granted.

(4) For special assessment contested cases, the answer must specify the statutory authority under which the special assessment district was created and a copy of the resolution confirming the special assessment roll must be submitted concurrently with the answer.

(5) For non-property tax contested cases, a copy of the final assessment, decision, or order being appealed must be submitted concurrently with the answer.

(6) For contested tax bill contested cases, the answer must specify the date the contested tax bill was mailed.

R 792.10231 Defaults; failure to appear; withdrawals; transfers.

Rule 231. (1) If a party has failed to plead, or otherwise proceed as provided by these rules or a tribunal order, the tribunal may, upon motion or its own initiative, hold that party in default. A party held in default shall cure the default as provided by the order holding the party in default. Failure to cure the default may result in the dismissal of the contested case or the conducting of a default hearing.

(2) If a petitioner fails to appear for a scheduled proceeding other than a prehearing conference or a non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the petitioner in default and, if the default is not timely cured, may dismiss the contested case. If a petitioner fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the petitioner or issue an order holding the petitioner in default and, if the default is not timely cured, may dismiss the contested case.

(3) If the respondent fails to appear for a scheduled proceeding other than a prehearing conference or non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the respondent in default and, if the default is not timely cured, may conduct a default hearing. If the respondent fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the respondent or issue an order holding the respondent in default and, if the default is not timely cured, may conduct a default hearing.

(4) A petition may be withdrawn upon a motion filed by the petitioner before the answer or first responsive motion has been filed with the tribunal. Once the answer or first responsive motion has been filed, a petition may be withdrawn upon motion filed by petitioner only if the other parties

do not object to the withdrawal for substantive reasons. For purposes of this subrule, a request for costs is not a substantive reason.

(5) The tribunal may, upon motion, transfer a contested case pending in the entire tribunal to the small claims division.

R 792.10233 Applicability of prehearing and discovery procedures to equalization, allocation, and apportionment contested cases.

Rule 233. The prehearing and discovery procedures fixed by R 792.10237 to R 792.10247 do not apply to equalization, allocation, and apportionment contested cases, unless otherwise ordered by the tribunal.

R 792.10237 Valuation disclosure; witness list.

Rule 237. (1) A party's valuation disclosure in a property tax contested case must be submitted to the tribunal and the opposing parties as ordered by the tribunal. However, a party may, if the party has reason to believe that the opposing parties may not exchange a valuation disclosure as ordered by the tribunal, submit a valuation disclosure to the tribunal together with a motion and appropriate filing fee requesting the tribunal's leave to withhold the valuation disclosure until all opposing parties submit their valuation disclosures to that party.

(2) A party shall submit to the tribunal and the opposing parties a prehearing statement, as required by R 792.10247. The prehearing statement must provide the opposing parties and the tribunal with the name and address of any person who may testify at hearing and a general summary of the subject area of their testimony. A person who is not disclosed as a witness is not permitted to testify, unless the tribunal permits the testimony to be taken for good cause shown.

R 792.10239 Interrogatories to parties.

Rule 239. (1) A party to a contested case may serve upon all adverse parties written interrogatories to be answered by the party to whom the interrogatories are directed.

(2) Interrogatories must be answered separately and fully in writing under oath. If an interrogatory is objected to, the reasons for objection must be stated in place of an answer. The answers must be signed by the person making them and contain information that is available to the party served or that could be obtained by the party from its employees, agents, representatives, or persons who may testify on the party's behalf. The party to whom the interrogatories are directed shall serve a copy of the answers on the party or the party's attorney or authorized representative submitting the interrogatories and on all other parties or their attorneys or authorized representatives within 28 days after service of the interrogatories.

(3) If any of the interrogatories have not been answered within the time specified under subrule (2) of this rule, then the tribunal, on motion and for good cause shown, may issue an order compelling a response.

(4) To the extent that answers are admissible as evidence before the tribunal, answers to interrogatories may be used against the party making them, and an adverse party may introduce an answer that has not been previously offered in evidence by a party.

(5) A person who answers interrogatories is not the witness of the party who submits the interrogatories.

(6) By tribunal order, interrogatories may be limited, as justice requires, to protect the answering party from annoyance, expense, embarrassment, oppression, or violation of a privilege.

(7) A party who has given a response that was complete when made is not under a duty to supplement the response to include information thereafter acquired, unless ordered by the tribunal, except as follows:

(a) To supplement the response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, or the identity of each person expected to be called as a witness at the hearing, the subject matter on which the witness is expected to testify, and the substance of the witness's testimony.

(b) To amend a prior response that the party knows was incorrect when made based on information obtained by the party, or to amend a prior response that was correct when made, but that is no longer true and failing to amend the response is, in substance, a knowing concealment.

R 792.10243 Requests for production of documents and tangible things for inspection, copying, or photographing; inspection of property.

Rule 243. (1) A party to a contested case may serve upon another party a request to produce or permit the inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged, which come within the scope of discovery permitted by MCR 2.302(B), and which are in the party's possession, custody, or control.

(2) A party to a contested case may serve upon another party a request to permit entry and inspection of the property under appeal by or on behalf of the requesting party.

(3) A party upon whom a request is served under subrule (1) or (2) of this rule shall serve a copy of the response to the request on the party or party's attorney or authorized representative submitting the request and on all other parties within 28 days after service of the request.

(4) If a party upon whom a request is served under subrule (1) or (2) of this rule does not comply with the request, then the tribunal may, upon motion or its own initiative, order the party to do either of the following:

(a) Produce or permit the inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged and come within the scope of discovery permitted by MCR 2.302(B), and which are in the party's possession, custody, or control.

(b) Permit entry and inspection of the property under appeal.

(5) The order may specify the time, place, and manner of making the production or permitting the inspection and copying or photographing of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things or entry and inspection of the property under appeal. The order may prescribe other terms and conditions as are just.

(6) If the party or person claims that the item is not in their possession or control or that they do not have information calculated to lead to discovery of the item's whereabouts, then they may be ordered to submit to examination before the tribunal or to other means of discovery regarding the claim.

R 792.10245 Consequences of refusal to make discovery.

Rule 245. If a party refuses to comply with an order issued under R 792.10239(3) or R 792.10243(4), then the tribunal may, upon a motion, hold that party in default or issue other orders in regard to the refusal as justice requires.

R 792.10247 Prehearing conference.

Rule 247. (1) Except as provided by R 792.10233 or as otherwise ordered by the tribunal, a prehearing conference must be held in all contested cases pending in the entire tribunal.

(2) Each party shall submit a prehearing statement as ordered by the tribunal. The prehearing statement must be signed, and on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.

(3) The purposes of the prehearing conference are as follows:

(a) To specify, in a property tax appeal, the present use of the property, the use for which the property was designed, and the classification of the property.

(b) To specify all sums in controversy and the particular issues to which they relate.

(c) To specify the factual and legal issues to be litigated.

(d) To consider the formal amendment of all petitions and answers or their amendment by prehearing order, and, if desirable or necessary, to order that the amendments be made.

(e) To consider the consolidation of petitions for hearing, the separation of issues, and the order in which issues are to be heard.

(f) To consider all other matters that may aid in the disposition of the contested case.

(4) The administrative law judge who conducts the prehearing conference shall prepare, and cause to be served upon the parties or their attorneys or authorized representatives, not less than 14 days in advance of hearing, an order summarizing the results of the conference specifically covering each of the items stated in this rule and R 792.10114. The order controls the subsequent course of the contested case unless modified at or before the hearing by the tribunal to prevent manifest injustice.

(5) When a contested case is ready for a prehearing conference, the tribunal shall schedule the contested case for a prehearing conference at a date and time to be designated by the tribunal or place the contested case on a prehearing general call.

(6) If a prehearing conference is scheduled, notice of the date and time of the prehearing conference and the manner for the conducting of the prehearing conference, including, but not limited to, by telephone, by video conference, or in-person, must be provided to the parties not less than 28 days before the date of the prehearing conference, unless otherwise ordered by the tribunal.

(7) If a contested case is placed on a prehearing general call, notice of the prehearing general call must be provided to the parties not less than 28 days before the commencement of the prehearing general call, unless otherwise ordered by the tribunal. The notice must set forth the time period in which the prehearing conference will be held and the dates for the submission of valuation disclosures, prehearing statements, and the closure of discovery.

(8) If a party fails to comply with the order scheduling the prehearing conference or a prehearing general call order, the prehearing conference must commence as a show cause hearing to provide the party with an opportunity to justify their failure to comply with the order.

R 792.10249 Stipulations.

Rule 249. (1) A consent judgment may be entered upon submission of a stipulation with appropriate fee, if the stipulation meets all of the following:

(a) It was filed after the filing of a petition and answer.

(b) It is signed by all parties or their attorneys or authorized representatives.

(c) It addresses issues over which the tribunal's authority is properly invoked.

(d) It is found to be acceptable to the tribunal. The stipulation must be on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.

(2) If a party submits a stipulation by email, the party shall pay the fee required for the filing of the stipulation within 14 days after the date the stipulation was emailed. If a party submits the stipulation at the hearing and the hearing is conducted at a site other than the tribunal's office, the party shall pay the fee required for the filing of the stipulation within 14 days after the hearing date. If the hearing is conducted at the tribunal's office, the party shall pay the required filing fee upon submission of the stipulation. Failure to pay the required filing fee may result in the issuance of a notice of no action, an order holding the party in default, or the denial of the stipulation.

R 792.10251 Hearings.

Rule 251. (1) When a contested case is ready for hearing, the tribunal shall issue a notice of hearing. The notice of hearing must indicate the date, time, and video link for the conducting of a hearing by video conference or the date, time, and location of the hearing for the conducting of a hearing in-person, as designated by the tribunal. The tribunal shall send the notice of hearing to the parties or their attorneys or authorized representatives not less than 28 days before the date of the hearing, unless otherwise ordered by the tribunal.

(2) The tribunal may, on motion or its own initiative, adjourn a hearing.

R 792.10253 Subpoenas.

Rule 253. (1) On written request signed by a party to a contested case, the tribunal, shall, as provided by section 36 of the tax tribunal act, MCL 205.736, issue subpoenas for the attendance and testimony of witnesses and, if appropriate, the production of evidence at hearing or deposition, including, but not limited to, books, records, correspondence, and documents in their possession or under their control.

(2) A party may serve a subpoena by mail or personal delivery. A party may not serve a subpoena less than 3 business days before a scheduled hearing or deposition, unless otherwise ordered by the tribunal.

(3) Proceedings to enforce a subpoena may be commenced in the circuit court for the county in which the hearing is held. For purposes of this subrule, a video-conference hearing is considered to be held in Ingham County.

R 792.10255 Conduct of hearings.

Rule 255. (1) All hearings before the entire tribunal must be recorded either electronically or stenographically, or both, in the discretion of the tribunal.

(2) Without leave of the tribunal, a witness may not testify as to the value of property without submission of a valuation disclosure signed by that witness and containing that witness' value conclusions and the basis for those conclusions. This requirement does not preclude an expert witness from rebutting another party's valuation evidence. The expert witness may not testify as to the value of the property at issue unless the expert witness submitted a valuation disclosure signed by that expert witness.

(3) If a witness is not testifying as to the value of property or as an expert witness, then their testimony in the form of opinions or inferences is limited to opinions or inferences that are rationally based on the perception of the witness and that are helpful to a clear understanding of their testimony or the determination of a fact in issue, as provided in MRE 701.

R 792.10257 Rehearings or reconsideration.

Rule 257. (1) The tribunal may order a rehearing or reconsideration of any decision or order upon its own initiative or motion filed within 21 days after the entry of the decision or order sought to be reheard or reconsidered.

(2) No response to the motion may be filed and there is no oral argument, unless otherwise ordered by the tribunal.

R 792.10259 Witness fees.

Rule 259. A witness who is summoned to a hearing, or whose deposition is taken, shall receive the same fees and mileage as witnesses in the state's circuit courts. A witness shall not be required to testify until the fees and mileage provided for have been tendered to them by the party at whose instance they were subpoenaed.

SUBPART C. MATTERS BEFORE SMALL CLAIMS DIVISION

R 792.10261 Scope.

Rule 261. The rules in subparts A and C of this part govern practice and procedure in all contested cases pending in the small claims division and are known as the small claims rules. If an applicable small claims rule does not exist, then the entire tribunal rules govern, except for rules that pertain to discovery, which, in the small claims division, is by leave of the tribunal only.

R 792.10263 Jurisdiction.

Rule 263. (1) A contested case disputing a property's state equalized or taxable value may be heard in the small claims division if any 1 of the following properties is exclusively involved:

(a) Real property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) Real property exempt under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(c) Real property classified as agricultural real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(d) Real property with less than 4 rental units.

(e) Any other property where the value in contention is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

(2) A contested case disputing a non-property tax matter may be heard in the small claims division if the amount of tax in dispute is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762, exclusive of interest and penalty charges.

(3) A contested case disputing a special assessment may be heard in the small claims division if the amount of the special assessment in dispute is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

R 792.10265 Records.

Rule 265. (1) A formal transcript may not be taken for any hearing conducted in the small claims division, unless otherwise provided by the tribunal.

(2) An informal transcript of a hearing conducted in the small claims division is not a record of the hearing, unless otherwise ordered by the tribunal.

R 792.10267 Fees.

Rule 267. (1) There is no fee for the filing of a property tax appeal petition or motion in a small claims division contested case disputing a property's state equalized or taxable value or exemption from ad valorem taxation, if the property has, at the time of the filing of the petition, a principal residence exemption of at least 50% for all tax years at issue.

(2) There is no fee for the filing of a property tax appeal petition or motion in a small claims division contested case disputing the denial of a poverty exemption or disabled veterans exemption.

(3) For all other small claims contested cases, the following fees must be paid to the tribunal for the filing of all petitions and motions in each contested case. If a petition or motion is filed by mail, delivery, or through the tribunal's e-filing system, the fee must be paid upon filing. If a motion is filed by email, the fee must be paid within 14 days after the date of the emailed filing. For purposes of this rule, a motion includes a stipulation for entry of a consent judgment. The fees are, unless otherwise ordered by the tribunal, as follows:

(a) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value or exemption from ad valorem taxation for property defined as residential property under section 762 of the tax tribunal act, MCL 205.762, is 50% of the filing fee provided in R 792.10217(a). If the petition contains multiple, contiguous parcels of property owned by the same person, there is an additional $25.00 fee for each additional parcel, not to exceed a total filing fee of $1,000.00. For purposes of this subdivision, the contiguous parcels must be located in a single assessing unit.

(b) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value or exemption from ad valorem taxation for property that is not defined as residential property under section 762 of the tax tribunal act, MCL 205.762, is the fee provided in R 792.10217(a).

(c) The fee for filing a property tax appeal petition contesting the denial of a principal residence or qualified agricultural exemption is $25.00.

(d) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is $100.00.

(e) The fee for filing a property tax appeal petition contesting the classification of property is $75.00.

(f) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is $50.00.

(g) The fee for filing a motion to withdraw a petition or a motion to have the hearing conducted on the file, by telephone, by video conference, or in-person for the moving party is $0.00.

(h) The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is $0.00.

(i) The fee for the filing of a stipulation agreeing to participate in mediation is $0.00.

(j) The fee for the filing of all other motions is $25.00.

(k) The fee for the filing of multiple motions in a single document is the largest fee that would be charged if each motion is filed separately.

R 792.10271 Subsequent tax year assessments.

Rule 271. The appeal for each subsequent year for which an assessment has been established is added automatically to the petition for an assessment dispute as to the valuation or exemption of

property at the time of hearing. For purposes of this rule, a subsequent tax year assessment is established by April 1 of that tax year.

R 792.10273 Transfers.

Rule 273. (1) A party may, by motion filed with the tribunal and served on the opposing parties, request a transfer of the contested case from the small claims division to the entire tribunal.

(2) If the motion is filed with the tribunal after the notice of hearing in the contested case has been issued by the tribunal, the parties shall appear at the hearing and be prepared to conduct the hearing, unless otherwise ordered by the tribunal.

(3) If the request is granted, the moving party shall pay all tribunal filing fees and any reasonable costs that the tribunal determines may be incurred by the opposing party or parties as a direct result of the transfer.

(4) With the permission of the petitioner, the tribunal may refer a contested case properly pending in the small claims division to the entire tribunal.

R 792.10275 Appearance and representation.

Rule 275. (1) The tribunal may, upon a motion filed with the tribunal and served on the opposing parties not less than 28 days before the hearing scheduled in a contested case, conduct the hearing on the file for the moving party. If the motion is granted, the tribunal shall render a decision based on the testimony provided by the opposing parties at the hearing, if any, and all pleadings and written evidence properly submitted by all parties not less than 21 days before the date of the scheduled hearing or as otherwise ordered by the tribunal.

(2) The tribunal may, upon motion filed with the tribunal and served on the opposing parties not less than 28 days before the hearing scheduled in a contested case, conduct a hearing by telephone, by video conference, or in-person for the moving party.

R 792.10277 Commencement of proceedings.

Rule 277. (1) The petition must be on a form made available by the tribunal.

(2) The petition must be signed and set forth a clear and concise statement of facts upon which the petitioner relies in making petitioner's claim for relief.

(3) For property tax contested cases, a copy of the notice giving rise to the appeal, including, but not limited to, notice of board of review action, notice of taxable value uncapping, or notice denying a principal residence exemption, must be submitted with the petition. For non-property tax contested cases, a copy of the final assessment, decision, or order being appealed must be submitted with the petition.

R 792.10279 Answers.

Rule 279. (1) An answer to a petition must be filed with the tribunal within 28 days after the tribunal serves the notice of docket number on the respondent. Failure to file the answer as required by this rule may result in the holding of respondent in default, as provided by R 792.10231.

(2) The answer must be on a form made available by the tribunal.

(3) The answer must be signed and set forth a clear and concise statement of facts upon which the respondent relies in defense of the matter.

(4) For special assessment contested cases, the answer must specify the statutory authority under which the special assessment district was created and a copy of the resolution confirming the special assessment roll must be submitted with the answer.

(5) The tribunal shall issue a notice to all parties upon the filing of the answer indicating that the answer is filed and that the contested case is ready for the scheduling of a hearing.

R 792.10281 Stipulations.

Rule 281. (1) A consent judgment may be entered upon submission of a stipulation with an appropriate fee, if the stipulation meets all of the following:

(a) Is filed after the filing of a petition and answer.

(b) Is signed by all parties or their attorneys or authorized representatives.

(c) Addresses issues over which the tribunal's authority has been or may be properly invoked.

(d) Is found to be acceptable to the tribunal. The stipulation must be on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.

(2) If a party submits a stipulation by email, the party shall pay the fee required for the filing of the stipulation within 14 days after the date the stipulation is emailed. If a party submits a stipulation at the hearing and the hearing is conducted at a site other than the tribunal's office, the party shall pay the fee required for the filing of the stipulation within 14 days after the hearing date. If the hearing is conducted at the tribunal's office, the party shall pay the required filing fee upon submission. Failure to pay the required filing fee may result in the issuance of a notice of no action, an order holding the party in default, or the denial of the stipulation.

R 792.10283 Hearing sites; accessibility; accommodations.

Rule 283. (1) For property tax contested cases, the hearing may be conducted telephonically, by video conferencing, or in-person. If the hearing is in-person, the hearing must be conducted in the county in which the property is located or in a county contiguous to the county in which the property is located or at a site agreed upon by the parties and approved by the tribunal. An in-person rehearing by a tribunal member must be at a site to be determined by the tribunal.

(2) For non-property tax contested cases, the hearing may be conducted telephonically, by video conferencing, or in-person. If the hearing is in-person, the hearing must be conducted at a site to be determined by the tribunal.

(3) For all contested cases, an in-person hearing must be conducted in a location that is accessible to mobility-impaired individuals. Accessible parking must also be available.

(4) A person who has a disability and who needs to be accommodated for effective participation in a hearing shall contact the tribunal in writing or telephonically not less than 7 days before the scheduled hearing date.

R 792.10285 Notice of hearing.

Rule 285. Notice must be sent to the parties or their attorneys or authorized representatives not less than 45 days before the hearing, unless otherwise ordered by the tribunal. The notice must include the following information:

(a) The time and date of the hearing.

(b) The manner for the conducting of the hearing, including, but not limited to, by telephone, by video conference, or in-person.

(c) If the hearing is in-person, the location of the hearing.

R 792.10287 Evidence.

Rule 287. (1) A copy of all evidence, other than rebuttal evidence, to be offered in support of a party's contentions must be filed with the tribunal and served on the opposing parties not less than

21 days before the date of the scheduled hearing, unless otherwise ordered by the tribunal. Failure to comply with this subrule may result in the exclusion of the valuation disclosure or other written evidence at the time of the hearing because the opposing parties may have been denied the opportunity to adequately consider and evaluate the valuation disclosure or other written evidence before the date of the scheduled hearing. If a valuation disclosure or other written evidence is excluded, the tribunal shall indicate the basis of the exclusion in the decision.

(2) Service of the evidence must be made on the opposing parties unless an attorney or authorized representative has entered an appearance in the contested case on behalf of an opposing party and then service must be made on the attorney or authorized representative for that party.

(3) If a party wishes to submit rebuttal evidence to the tribunal and the opposing parties less than 21 days before the date of a scheduled hearing, the party shall, if the hearing is in-person, bring multiple copies of that evidence to the hearing, including 1 copy for the presiding judge and 1 copy for each opposing party. If the hearing is by telephone or video conference, the party shall submit the evidence to the tribunal and the opposing parties by email in advance of the commencement of the hearing.

R 792.10289 Exceptions; filing of exceptions; "good cause" defined; service of exceptions; rehearings.

Rule 289. (1) A party may submit exceptions to a decision by a referee or an administrative law judge, other than a tribunal member, by filing with the tribunal and serving on the opposing parties the exceptions within 20 days after the entry of the decision. The exceptions must be signed and are limited to the evidence submitted before or otherwise admitted at the hearing and any matter addressed in the proposed opinion and judgment and demonstrate good cause as to why the decision should be adopted, modified, or a rehearing held. As used in this subrule, "good cause" means error of law, mistake of fact, fraud, or any other reason the tribunal considers sufficient and material.

(2) The opposing parties may file with the tribunal and serve on all other parties a response to the exceptions within 14 days after the service of the exceptions on those parties. The response must be signed.

(3) Service of the exceptions or a response must be made on the opposing parties. If an attorney or authorized representative has entered an appearance in the contested case on behalf of the opposing parties, service must be made on the attorney or authorized representative for the opposing parties.

(4) The party that files exceptions or a response shall also file a proof of service or statement attesting to the service of the exceptions or response on all other parties or their attorney or authorized representative. The statement must specify who was served with the exceptions or response and the date and method by which the exceptions or response was served. If no statement attesting to the service of the exceptions or response is filed, the tribunal shall issue a notice of no action. If the statement is filed within the time period provided in the notice of no action described in R 792.10221(11), action shall be taken on the exceptions or response.

(5) A rehearing, if held, shall be conducted by a tribunal member in a manner to be determined by the tribunal and may be limited to the evidence considered at the hearing.

SUBPART D. MEDIATION

R 792.10291 Scope.

Rule 291. The rules in this subpart govern mediation in all contested cases pending in the tribunal and are known as the mediation rules. If an applicable mediation rule does not exist, the rules in subparts A, B, and C and MCR 2.411 and 2.412 govern.

R 792.10293 Mediation; referral to mediation; selection of mediator.

Rule 293. A contested case may be referred to mediation by order of the tribunal if all of the following apply:

(a) The parties file a stipulation agreeing to participate in mediation.

(b) The stipulation designates a mediator selected from the list of mediators certified and published by the tribunal.

(c) The stipulation specifies that the selected mediator has disclosed any potential basis for disqualification.

(d) The stipulation specifies that the parties and the selected mediator have agreed to the compensation of the mediator and the payment of that compensation.

R 792.10295 Scheduling; conduct of mediation; completion of mediation.

Rule 295. (1) The order referring a contested case to mediation must address all proceedings and deadlines previously scheduled by the tribunal in that contested case and specify the time within which the mediation is to be completed. The substitution of a mediator must not extend the time within which mediation is to be completed unless otherwise ordered by the tribunal.

(2) Mediation must be conducted as provided by MCR 2.411(C)(2).

(3) Within 7 days after mediation is completed, the mediator shall advise the tribunal of the completion by filing a mediation status report. The report must be on a form made available by the tribunal.

(4) If a contested case is settled through mediation, the parties shall file a stipulation for entry of consent judgment with appropriate filing fee and a consent judgment may be entered if the stipulation is found to be acceptable to the tribunal.

R 792.10297 Mediators; standards of conduct; eligibility; application fee; list of mediators; removal, rejection, and reconsideration.

Rule 297. (1) A mediator has no authoritative decision-making power to resolve a contested case before the tribunal in mediation.

(2) A mediator shall comply with the standards of conduct for mediators as provided under MCR 2.411(G).

(3) An individual desiring to be certified as a mediator shall file a mediation application with the tribunal. The application must be on a form made available by the tribunal.

(4) An individual is eligible to be a mediator if both of the following requirements are met:

(a) The individual has 5 years of state and local tax experience, and that experience has occurred within the 7 years immediately preceding the submission of the application.

(b) The individual is qualified as a general civil mediator under MCR 2.411(F)(2) and (4).

(5) An individual that files an application and pays the application fee may be certified, if eligible, and placed on a published list of mediators for a period of 1 year at which time the individual shall reapply in the same manner as a new individual.

(6) The fee for the filing of an application to be certified as a mediator is $50.00.

(7) The tribunal shall review all applications and compile a list of certified mediators at least quarterly and publish the list of mediators on the tribunal’s website.

(8) The mediator list must include all of the following:

(a) The hourly rate charged by each certified mediator for their mediation services.

(b) The type of tax the mediator is certified to mediate.

(c) A summary of the certified mediator's experience and training as a mediator.

(d) The forum or forums in which the mediator is certified to practice.

(9) The tribunal may remove a certified mediator from the list of mediators as provided by MCR 2.411(E)(4).

(10) If an individual files an application and pays the application fee but is not certified as a mediator or is removed from the list of mediators, the individual may file a motion seeking reconsideration of the rejection or removal. The motion must be considered by the tribunal chair.

PART 4: PUBLIC SERVICE COMMISSION PRACTICE AND PROCEDURE BEFORE THE COMMISSION

SUBPART A. GENERAL PROVISIONS

R 792.10402 Definitions.

Rule 402. As used in this part:

(a) "Applicant" means a person that applies, requests, or petitions for permission, authorization, or approval.

(b) "Commission" means the Michigan public service commission.

(c) "Complainant" means a person that files a complaint pursuant to these rules.

(d) "Complaint" means an initial pleading filed by a complainant.

(e) "Director of the regulatory affairs division" means the commission employee assigned to manage the executive secretary and administrative law specialists advising the commission.

(f) "Document" means a record produced on paper or a digital image of a record originally produced on paper or originally created by electronic means, the output of which is readable by sight and can be printed on paper.

(g) "Electronic filing" means the process of submitting a document over the internet to the commission in accordance with the e-docket instructions available on the commission's website.

(h) "Electronic service" means the serving of any document by email in accordance with MCR 2.107(C)(4).

(i) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(j) "Intervenor" means a person permitted to intervene in a proceeding pursuant to these rules.

(k) "Party" means a person by or against whom a proceeding is commenced or a person that is permitted to intervene or the staff of the commission in any proceeding in which the staff participates.

(l) "Person" means any of the following entities:

(i) A natural person.

(ii) Corporation.

(iii) Municipal corporation.

(iv) Public corporation.

(v) Body politic.

(vi) Government agency.

(vii) Association.
(viii) Partnership.
(ix) Receiver.
(x) Joint venture.
(xi) Trustee.
(xii) Common law or statutory trust guardian.
(xiii) Executor.
(xiv) Administrator.
(xv) Fiduciary of any kind.
(xvi) Staff.

(m)"Pleading" means any of the following:

(i) An application, petition, complaint, or other document requesting initiation of a proceeding before the commission.
(ii) An answer to a document described in paragraph (i) of this subdivision.
(iii) A reply to an answer described in paragraph (ii) of this subdivision.
(iv) A petition to intervene or the staff's written appearance or notice of intention to participate.
(v) An objection to a petition to intervene.
(vi) A motion or a response to a motion.
(vii) A petition to reopen a proceeding or a response to a petition to reopen a proceeding.
(viii) A petition for rehearing or a response to a petition for rehearing.
(ix) A petition for clarification or a response to a petition for clarification.

(n) "Presiding officer" means the administrative law judge assigned by the hearing system or other person assigned by the commission to preside over and hear a proceeding or part of a proceeding held before the commission. The commission or a commissioner is a presiding officer only when it or they preside over and hear a proceeding or part of a proceeding.

(o) "Prima facie case" means a case in which, assuming all the facts in the complaint are true, the complainant is requesting a remedy that is within the jurisdiction of the commission to grant.

(p) "Proof of publication" means an affidavit stating the facts of publication, including the date, publication, and manner of publication with a copy of the publication attached.

(q) “Proof of service" means an affidavit stating the facts of service, including the date, place, and manner of service and the parties served.

(r) "Respondent" means one against whom a complaint is filed or against whom an investigation, order to show cause, or other proceeding on the commission's own motion is commenced and a utility rendering the same kind of service within a municipality or part of a municipality proposed to be served by another utility in a proceeding under the provisions of R 792.10447.

(s) "Secretary" means the person designated by the commission as its executive secretary or, in the absence of the secretary, the person designated by the commission as its acting secretary.

(t) "Staff" means an employee or employees of the commission other than the presiding officer and commissioners.

R 792.10403 Applicability; construction.

Rule 403. (1) These rules govern practice and procedure in all proceedings before the commission, except as otherwise provided by statute or these rules. In areas not addressed by these rules, the presiding officer may rely on appropriate provisions of the Michigan court rules.

(2) These rules shall be liberally construed to secure a just, economical, and expeditious determination of the issues presented.

R 792.10404 Information, documents, and communications.

Rule 404. (1) Pleadings and other documents must conform to all requirements of these rules. The secretary, upon reasonable request, shall provide advice about the form of pleadings and other documents to be filed in a proceeding.

(2) Except for confidential documents and filings addressed under subpart E of these rules, pleadings and other documents filed with the commission must be electronically filed, searchable, and able to be copied and pasted.

R 792.10405 Pleadings; verification and effect; adoption by reference; signature of attorney.

Rule 405. (1) Unless otherwise provided by these rules, statute, or commission order, a pleading need not be verified or accompanied by an affidavit.

(2) Statements in a pleading may be adopted by reference when they are clearly identified and a copy is attached.

(3) Every pleading of a party represented by an attorney must be signed or electronically signed by an attorney of record. A party who is not represented by an attorney shall sign or electronically sign the pleading.

(4) If a pleading is not signed, it is subject to rejection by the presiding officer or the commission unless it is signed promptly after the omission is called to the attention of the pleader.

(5) The signature or electronic signature of an attorney or party, whether or not the party is represented by an attorney, constitutes a certification by the signer of all of the following:

(a) The signer has read the pleading.

(b) To the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the pleading is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(c) The pleading is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceeding.

(6) If an application requests ex parte relief from the commission, the application must include “ex parte” in its title.

(7) Parties to a proceeding shall designate themselves as applicants, complainants, intervenors, respondents, or staff according to the nature of the proceeding and the relationship of the parties.

R 792.10406 Filing and service of documents.

Rule 406. (1) Pleadings and other documents are filed with the commission by filing with the secretary. Except as provided in subpart E of these rules and except as otherwise provided by statute or order of the commission or presiding officer, the filing and service of notices, pleadings, motions, and other documents required to be filed or served in a proceeding must be made electronically.

(2) Unless otherwise provided by rule or statute, the date of filing is the date the pleading or other document is received by the commission. If filed electronically, the date of filing is the date that a complete and compliant document is submitted in the e-dockets system. The date of service is the date it is deposited with the United States Postal Service for first-class mailing or courier delivery service or is delivered in-person, unless otherwise provided by the commission. If served electronically, the date of service is the date the email is sent. To be considered timely, a document must be filed and served by 11:59 p.m. on the due date unless that time is modified by the presiding

officer or the commission. Documents filed after 11:59 p.m. or after the time designated by the presiding officer or the commission are considered to have been filed the next business day.

(3) Confidential filings must be made in accordance with the instructions on the commission's website.

(4) Filings may be removed from the e-docket only after submission of a written formal request for removal to the executive secretary along with a detailed explanation of the reason for requesting removal. All filings are retained and destroyed in accordance with the commission's approved record retention and disposal schedule.

(5) Filers must consult commission guideline 2014-1 for a description of documents that may be rejected for filing.

(6) Except for residential complaint cases addressed under R 792.10441(5), a party shall electronically serve on all other parties a copy of each document that the party files with the commission. After notice of hearing has been given in a proceeding, a party shall serve, on the assigned presiding officer or, if a presiding officer has not been assigned, on the administrative law manager assigned by the hearing system to the commission, a copy of each document that the party files.

(7) When a party has appeared by attorney, service upon the attorney is service upon the party.

(8) Service on municipalities must be made on supervisors of townships and on clerks of other municipalities.

(9) Within 7 days after a document is served, the person serving the document shall file proof of service or acceptance of service by the person served or that person's attorney.

(10) Not less than 7 days before the date set for the initial prehearing, an applicant may file a request that the commission read the record in a pending proceeding and dispense with the proposal for decision. A copy of the request must be served upon the other parties to the proceeding and upon the director of the regulatory affairs division. Applicants are cautioned that such requests will be granted only under extraordinary circumstances.

R 792.10407 Proceedings; location; time.

Rule 407. Meetings of the commission and hearings in all proceedings held pursuant to any statute or these rules must be held at the commission's offices located at 7109 West Saginaw Highway in Lansing, Michigan 48917 or such other place as the commission may direct on such days and at such hours as the commission, the secretary, or the presiding officer may direct.

R 792.10408 Cost of copies of decisions and transcripts.

Rule 408. A copy of the decision or order in a proceeding must be served electronically to each party to the proceeding. Paper copies of transcripts and proposals for must be furnished at rates consistent with current policy and statutes. Paper copies of orders must be provided upon request.

SUBPART B. INTERVENTIONS

R 792.10410 Petitions.

Rule 410. (1) A person who is not a complainant, respondent, applicant, or staff, and who claims an interest in a proceeding may petition for leave to intervene. Unless otherwise provided in the notice of hearing, a petition for leave to intervene must be filed with the commission not less than 7 days before the date set for the initial hearing or prehearing conference and the petition must be served on all parties to the proceeding. All parties must have an adequate opportunity to file

objections to, and to be heard with respect to, the petition for leave to intervene. A petition for leave to intervene that is not filed in a timely manner may be granted upon a showing of good cause and a showing that a grant of the petition will not delay the proceeding or unduly prejudice any party to the proceeding. Except for good cause, an intervenor whose petition is not filed in a timely manner, but who is nevertheless granted leave to intervene, is bound by the record and procedural schedules developed before the granting of leave to intervene.

(2) A petition for leave to intervene must set out clearly and concisely the facts supporting the petitioner's alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted. If affirmative relief is sought, the petition for leave to intervene must specify that relief. Requests for relief may be stated in the alternative.

R 792.10413 Participation without intervention.

Rule 413. (1) In a proceeding to fix rates or investigate conditions of service of a utility subject to the jurisdiction of the commission, a person may appear without a formal petition for leave to intervene. There must be a full disclosure of the identity of the person and the interest of the person in the proceeding.

(2) An appearance pursuant to this rule entitles the person to make a statement at a time provided for that purpose by the presiding officer, but the person shall not be regarded as a party to the proceeding. The position to be taken must be fully and fairly stated, the contentions of the person must be reasonably pertinent to the issues in the proceeding, and any right to unduly broaden the issues must be disclaimed. A statement must not be given under oath and must not be subject to cross-examination by the parties. A statement made pursuant to this rule is not considered part of the administrative record.

(3) A person participating in a case pursuant to this rule is not entitled to notice of adjournment or any other notice, except as otherwise provided by law, and is not entitled to be served with pleadings or other documents.

R 792.10414 Rescinded.

SUBPART C. HEARINGS

R 792.10415 General provisions.

Rule 415. (1) A contested case proceeding must be held when required by statute and may be held when the commission so directs.

(2) After a proceeding has been assigned to a presiding officer, the presiding officer may rule on all matters of evidence, scheduling, and motions. The presiding officer shall seek to secure a timely disposition of the proceeding, recognizing any applicable legislative directives.

(3) The presiding officer may conduct all or part of a hearing by telephone, video-conference, or other electronic means. All substantive and procedural rights apply to hearings under this subrule.

(4) An oral hearing before the commission must be made a matter of record. The record of the hearing in a contested case must be transcribed. In all other cases, the record of the hearing need not be transcribed unless a request for a transcript is made by the commission, a party, or the presiding officer. A transcript must be indexed to show the location of the testimony of each

witness and the introduction and receipt into evidence or rejection of all prepared testimony and exhibits. If offered by a party, prefiled testimony may be bound into the record.

(5) Any party may request material and relevant corrections of the transcript within a reasonable time after the filing of each volume of the transcript. If the presiding officer does not provide otherwise, any party may file with the commission, within 7 days after each volume of the transcript is filed with the commission, a request for correction of the transcript. Within 7 days after the filing of any request, other parties may file responses in support of, or in opposition to, all or part of the proposed corrections. Thereafter, the presiding officer shall, either upon the record or by order served on all parties, specify the corrections to be made to the transcript. Further, the commission or the presiding officer may specify corrections to be made to the transcript by providing 7 days' notice to all parties and providing a time for responses.

(6) The commission or the presiding officer, or the administrative law manager assigned by the hearing system in any proceeding in which a presiding officer has not been assigned, may order proceedings consolidated for hearing on any or all matters at issue in the proceedings or may order the severance of proceedings or issues in a proceeding if consolidation or severance will promote the just, economical, and expeditious determination of the issues presented.

(7) Tape recorders and other mechanical or electronic devices are permitted at an oral hearing if they are unobtrusive and do not cause a witness to be intimidated or interfere with the orderly conduct of the proceeding.

R 792.10417 Initial notice of hearing.

Rule 417. Except as otherwise provided by statute or the commission, not less than 14 days before the date set for the initial hearing, written notice of the hearing must be provided to all parties and other persons as the commission or its secretary may direct. For good cause, the commission or its secretary may determine a shorter or longer period for notice. The notice must contain all of the following information:

(a) A statement of the date, hour, place, and nature of the hearing.

(b) The jurisdiction under which the hearing is to be held, including reference to the statutes, or sections of statutes, commission orders, or rules involved.

(c) A short and plain statement of the matters asserted and issues involved. The commission or its secretary may prescribe the form and manner of notice to be given.

R 792.10418 Participation by staff.

Rule 418. Staff may enter an appearance in any proceeding before the commission and present testimony as to the results of its accounting, engineering, and economic investigations, studies, inspections, enforcement activities, or other technical investigations or studies, file briefs, cross-examine witnesses, and state its position, policy, or recommendations based upon the evidence.

R 792.10421 Prehearing conferences.

Rule 421. (1) A prehearing conference may be held for any of the following purposes:

(a) Identifying and simplifying the factual and legal issues to be resolved.

(b) Amending pleadings by agreement or by prehearing order.

(c) Ruling on petitions to intervene and prehearing motions.

(d) Determining the scope of the hearing.

(e) Separating issues.

(f) Providing for joint, coordinated, or consolidated presentations by parties having substantially identical interests to avoid repetitive, cumulative, or redundant evidence.

(g) Disclosing the number, names, and order of presentation of witnesses.

(h) Producing and exchanging proposed exhibits and prepared testimony of proposed witnesses, and considering the admissibility of proposed exhibits and other documents.

(i) Providing for expeditious completion of discovery.

(j) Presenting and considering appropriate legal authorities in support of, or in opposition to, the contentions of the parties.

(k) Estimating the time required for hearing and establishing a schedule.

(l) Discussing the possibility of voluntary dismissal or settlement of the proceeding.

(m) Requiring production and distribution of proposed exhibits and written prepared testimony reasonably in advance of the hearing session at which the proposed exhibits and written testimony will be offered.

(n) Considering and ruling on other matters that may aid in the expeditious disposition of the proceeding.

(2) Notice of the time and place of any prehearing conference must be given to all parties. Any person failing to attend or otherwise participate in a prehearing conference after having been served appropriate notice of the time and place shall, with respect to procedural matters, be bound, except for good cause, by any agreements reached, schedules set, and any orders or rulings made. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

(3) Additional conferences may be held, as appropriate, during the course of any proceeding.

(4) At any conference held pursuant to this rule, the presiding officer may dispose of, by ruling, any procedural matter upon which the presiding officer may rule during the course of the proceeding if the parties have had appropriate notice. All rulings made at any prehearing conference are binding on all parties to the proceeding unless the rulings are subsequently modified or reversed by the presiding officer or the commission.

(5) After proper notice, the presiding officer may, on his or her own initiative or upon the request of a party, direct that a conference telephone or other electronic device be used for a prehearing or status conference. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

R 792.10429 Evidence; documents and exhibits.

Rule 429. (1) When the evidence consists of technical matters or figures so numerous as to make oral presentation difficult to follow, it must be presented in exhibit form, supplemented and explained, but not duplicated by testimony.

(2) Documentary exhibits must be on 1 side only, on paper not exceeding 8-1/2 by 11 inches, and have a sufficient margin for binding, preferably a margin of 1 1/2 inches on the left side of each sheet. A larger exhibit must be folded to not more than 8-1/2 by 11 inches, if practicable. An exhibit of 2 or more sheets must be stapled together and a notation made at the top of the first sheet as to the number of sheets contained in the exhibit. Each page of the exhibit must be numbered. An exhibit must show, at the top right-hand corner, the docket number of the proceeding and provide space for the name of the witness and the number and date of the exhibit. Except as otherwise directed by the commission or the presiding officer, all exhibits offered in a proceeding must be numbered sequentially regardless of the identity of the party offering them. The number

of the exhibit must be preceded with a letter indicating the identity of the party offering it; for example, "A" for applicant, "I" for intervenor, “R” for respondent, and "S" for the staff.

(3) A party introducing an exhibit shall furnish copies to all parties and such additional copies as the presiding officer may direct.

(4) Nothing in this rule prohibits the use by a witness of charts, graphs, pictures, or other means of visual demonstration that are large enough to be viewed by the presiding officer and all persons in the hearing room; however, when charts, graphs, pictures, or other means of visual demonstration are used, copies conforming to the requirements of subrule (2) of this rule must be provided to all parties and the presiding officer, together with such additional copies as the presiding officer may direct, unless the provision of copies would, in the judgment of the presiding officer, be impracticable.

(5) Documentary evidence may be submitted after the close of the record by stipulation of the parties and with the approval of the presiding officer or the commission.

(6) Written or printed documents, maps, charts, graphs, pictures, or other means of visual demonstration that are received in evidence shall not be returned to the parties, except upon approval of the commission.

R 792.10430 Evidence; testimony in written form.

Rule 430. (1) Testimony of a witness under oath shall be offered in written form, except as otherwise provided by the commission or the presiding officer. Unless otherwise ordered by the presiding officer, the testimony must be electronically filed with the commission and a copy electronically served on each party and the presiding officer not less than 7 days in advance of the session of the proceeding at which it is to be offered. If all parties in attendance on the day on which the testimony is offered agree, any part of the 7 days may be waived. In the absence of agreement, the presiding officer may permit the offering of the testimony after providing all parties who are present not less than 24 hours to examine it, unless, for good cause, the presiding officer finds a shorter time to be reasonable.

(2) The presiding officer may authorize any witness to present oral direct testimony.

(3) In any proceeding, a witness whose testimony is submitted in written form must be made personally available for cross-examination at the time directed by the presiding officer, unless all parties in attendance on that day waive cross-examination of the witness. If the witness whose testimony is submitted in written or exhibit form is not made available for cross-examination, the testimony shall not be received in evidence, except by stipulation of all parties in attendance on the day the testimony is submitted and with the approval of the presiding officer or as otherwise provided by law.

(4) All testimony in written form must include page and line numbers and be in question and answer form.

R 792.10432 Motion practice.

Rule 432. (1) In a pending proceeding, a request to the commission or presiding officer for a ruling or order, other than a final order, must be by motion. Unless made during a hearing, a motion must comply with all of the following provisions:

(a) Be in writing.

(b) State with particularity the grounds and authority on which the motion is based.

(c) State the relief or order sought.

(d) Be signed or electronically signed by the party or the party's attorney.

(2) Except as provided under subrule (7) of this rule, unless a different time is set by the commission or presiding officer or unless the motion is one that may be heard ex parte, a written motion, notice of the hearing on the motion, and any supporting brief or affidavits shall be served as follows:

(a) Not less than 9 days before the hearing, if served by mail or courier delivery service.

(b) Not less than 7 days before the hearing, if served electronically or by delivery to the attorney or party under MCR 2.107(c)(1) or (2).

(3) Unless a different time is set by the commission or presiding officer, any response to a motion, including a brief or an affidavit, shall be served as follows:

(a) Not less than 5 days before the hearing, if served by mail or courier delivery service.

(b) Not less than 3 days before the hearing, if served electronically or by delivery to the attorney or party under MCR 2.107(c)(1) or (2).

(4) Motions must be noticed for hearing at the time designated by the commission or presiding officer.

(5) When a motion is based on facts not appearing on the record, the commission or presiding officer may hear the motion on affidavits presented by the parties or may direct that the motion be heard wholly or partly as oral testimony or deposition.

(6) The commission or presiding officer may limit oral arguments on motions and may require the parties to file briefs in support of, and in opposition to, a motion. The commission may dispense with oral argument on matters brought before the commission.

(7) Except for good cause, a motion to extend time must be filed and served before the expiration of the period originally prescribed.

(8) A motion addressed to the commission shall be filed and served on all parties and the director of the regulatory affairs division. Any responsive pleading shall be filed and served on all parties and the director of the regulatory affairs division within 7 days after the motion is filed unless otherwise provided by these rules.

(9) In instances where the presiding officer has transmitted a case to the commission, the director of the regulatory affairs division may approve uncontested scheduling changes, stipulations, and other minor requests by parties to the proceedings without notice, a hearing, or a commission order.

R 792.10433 Appeals to commission from rulings of presiding officers.

Rule 433. (1) During the course of a proceeding, a party may appeal a ruling of the presiding officer by filing an application for leave to appeal the ruling to the commission. Unless otherwise provided by the presiding officer, the application shall be filed within 14 days after an oral ruling or service of a written ruling and any response shall be filed within 14 days after service of the application.

(2) The commission shall grant an application and review the presiding officer's ruling if any of the following provisions apply:

(a) A decision on the ruling before submission of the full case to the commission for final decision will materially advance a timely resolution of the proceeding.

(b) A decision on the ruling before submission of the full case to the commission for final decision will prevent substantial harm to the appellant or the public-at-large.

(c) A decision on the ruling before submission of the full case to the commission for final decision is consistent with other criteria that the commission may establish by order.

(3) An offer of proof must be made in connection with an appeal of a ruling excluding evidence. The offer of proof must be made on the hearing record. If the ruling excluded oral testimony, the

offer of proof must consist of a statement of the substance of the evidence that the appellant contends would be established by the testimony. If the ruling excluded written evidence or evidence that refers to documents or records, the offer of proof must consist of a copy of the evidence, documents, or records. If the ruling excluded prefiled testimony or rebuttal testimony, the offer of proof must consist of a copy of the testimony or rebuttal testimony.

(4) The application must be supported by a clear and concise brief, pursuant to the provisions of R 792.10434, stating the basis for the appeal and showing that it complies with the provisions of this rule. The brief must be supported by specific factual allegations as appropriate.

(5) The commission's failure to grant the application does not bar a party from asking the commission to consider the presiding officer's ruling on final disposition of the proceeding. A party's failure to file an application for leave to appeal does not constitute a waiver of the right to challenge any ruling of the presiding officer either in a brief or in exceptions to a proposal for decision.

R 792.10434 Oral arguments and briefs.

Rule 434. (1) Oral arguments may be made before the commission or the presiding officer at the discretion of the commission or the presiding officer, respectively. Oral arguments before the presiding officer must be requested before the close of the record. Oral arguments before the commission must be requested not later than the date for filing of exceptions.

(2) Initial briefs and reply briefs may be filed at the discretion of the parties unless the commission or presiding officer requires the filing of briefs and reply briefs by all parties. Unless otherwise provided, initial briefs must be filed within 21 days after the date of the filing of the last volume of the transcript, and reply briefs must be filed within 14 days after the date for filing initial briefs.

(3) Briefs containing factual allegations claimed to be established by the evidence must include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference must be attached. Any factual or legal issue that is not addressed in a party's initial brief shall not be addressed by that party in a reply brief, except in response to another party's brief. Reply briefs must be confined to rebuttal of the arguments contained in other parties' initial briefs. The presiding officer may strike any brief that does not comply with this rule.

(4) Proposed findings of fact, if any, must be filed not later than the date for filing initial briefs. Each proposed finding of fact must be numbered, stated clearly, and limited to a single proposed fact.

R 792.10435 Exceptions to proposals for decision.

Rule 435. (1) Unless otherwise provided, exceptions to a proposal for decision must be filed and served on all parties and the director of the regulatory affairs division within 21 days after service of the proposal for decision. Replies to exceptions, if provided for, must be filed and served on all parties and the director of the regulatory affairs division within 14 days after the date for filing exceptions.

(2) If a party does not file exceptions to a proposal for decision within the time permitted by this rule, any objection to the proposal for decision is waived. If a party does not object to a part of a proposal for decision, any objection by the party to that part of the proposal for decision is waived.

(3) Exceptions and replies to exceptions must be supported by reasoned discussion of the evidence and the law. Exceptions and replies to exceptions containing factual allegations claimed to be established by the evidence must include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference must be attached.

(4) Exceptions must clearly and concisely recite the specific findings of fact and conclusions of law to which exception is taken or the omission of, or imprecision in, specific findings of fact and conclusions of law to which the party takes exception.

SUBPART D. REOPENINGS AND REHEARINGS

R 792.10436 Reopening of proceedings.

Rule 436. (1) A proceeding may be reopened for the purpose of receiving further evidence when a reopening is necessary for the development of a full and complete record or there has been a change in conditions of fact or law such that the public interest requires the reopening of the proceeding.

(2) After providing due notice and an opportunity for the parties to be heard, the presiding officer, upon his or her own motion or upon motion of any party, may reopen the proceeding at any time before the date for the filing of exceptions to a proposal for decision or, if provided for, replies to exceptions. After the date for filing exceptions or replies to exceptions and until the expiration of the statutory time period for filing a petition for rehearing, the commission may reopen a proceeding. The commission may reopen a proceeding after the time period for filing a petition for rehearing for good cause.

(3) Within 21 days after service of a motion to reopen a proceeding, any party may file an answer. Any party failing to do so is considered to have waived objection to the granting of the motion. As soon as practicable after the time for filing answers to a motion to reopen, the presiding officer or the commission shall, in writing, grant or deny the motion. The presiding officer or the commission may provide for hearing and oral argument on a motion to reopen.

SUBPART E. COMPLAINTS

R 792.10439 Complaints; limited matters; initiating complaint.

Rule 439. A complaint must be limited to matters involving alleged unjust, inaccurate, or improper rates or charges or unlawful or unreasonable acts, practices, or omissions of a utility, including a violation of any commission rule, regulation, tariff filed or published by a utility, order, or a violation of a statute administered or enforced by the commission. A complaint may be either formal or informal and may be made by a person having an interest in the subject matter of the complaint or may be made by the commission on its own motion or by staff, subject to applicable statutory standards.

R 792.10440 Informal complaints.

Rule 440. The commission shall attempt to resolve as an informal complaint any matter brought to its attention by any person not requesting initiation of a contested case proceeding.

R 792.10441 Formal complaints; content.

Rule 441. (1) A formal complaint may be filed on paper or may be filed by email in accordance with instructions on the commission's website. Formal complaints filed by corporations must be electronically filed in the commission's e-docket system. Complaints filed by residential customers must be processed under the provisions of this subpart. Complaints filed by sole proprietors may be processed under this subpart in accordance with instructions from the secretary.

(2) A formal complaint must set forth all of the following:

(a) The name and address of the complainant and the complainant's attorney, if any.

(b) The name and address of the respondent.

(c) The interest of the complainant in the subject matter.

(d) A concise statement of the facts on which the complainant relies in requesting relief, with the specific allegations necessary to reasonably inform the respondent of the nature of the claims the respondent is called upon to defend, with specific reference to the section or sections of all statutes, rules, regulations, orders, and tariffs upon which the complainant relies in filing a complaint.

(e) A demand for a contested case proceeding.

(f) A clear and concise statement of the relief sought and the authority upon which the complainant relies for the relief.

(g) The signature of the person or persons filing the complaint.

(h) A specification regarding whether the complaint will be addressed by email filing and service or by paper filing and service.

(3) Two or more complainants may join in 1 complaint if their complaints are against the same respondent, involve substantially the same purposes and subjects, and are predicated upon substantially similar facts. This rule shall not be construed to authorize class actions in proceedings before the commission.

(4) If a complaint states a prima facie case, and the complainant elects to proceed using email filing and service, the filings in the complaint proceeding will not be available to the public on the commission's website. In addition to email service to the parties, all documents shall be emailed to the secretary in accordance with the instructions found on the commission's website.

(5) If a complaint states a prima facie case, and the complainant elects to file and serve documents on paper, the filing and service of notices, pleadings, motions, and other documents must be made by deposit with the United States Postal Service for first-class mailing, courier delivery service or by delivery in person. In all residential complaint cases to be processed on paper, a party shall file an original and 3 copies of each document or pleading.

R 792.10442 Formal complaints; examination; rejection.

Rule 442. An administrative law specialist assigned by the director of the regulatory affairs division shall review a complaint to determine if the complaint states a prima facie case within the commission's jurisdiction. If the commission finds that a complaint does not state a prima facie case or does not conform to these rules, it shall notify the complainant or the complainant's attorney that the complaint is rejected, give the reasons for the rejection, and return the complaint. Nothing in this rule prohibits a complainant whose complaint has been rejected from amending and refiling the complaint. Upon the filing of a formal complaint that conforms to the provisions of R 792.10441 of these rules and states a prima facie case, the commission, acting through its staff, may commence an investigation of the matters raised in the complaint.

R 792.10443 Formal complaints; service; offers of relief; answers.

Rule 443. (1) If the complaint states a prima facie case and conforms to the provisions of these rules, the commission shall serve upon the respondent, a notice, accompanied by a copy of the complaint, requiring that the matter complained of be satisfied or that the complaint be answered within 21 days after the date of service of the notice or within such time as the commission may, for good cause, provide.

(2) Every answer to a formal complaint must specifically admit or deny each material allegation contained in the complaint and also set forth any facts relied upon by the respondent as constituting an affirmative defense. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an allegation contained in the complaint, the respondent shall indicate this lack of knowledge or information in the answer, which operates as a denial.

SUBPART F. SPECIFIC PROCEEDINGS

R 792.10447 Public utilities; new construction.

Rule 447. (1) An entity listed in this subrule shall file an application with the commission for the necessary authority to do any of the following:

(a) A gas or electric utility within the meaning of the provisions of 1929 PA 69, MCL 460.501 to 460.506, that wants to construct a plant, equipment, property, or facility for furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(b) A natural gas pipeline company within the meaning of the provisions of 1929 PA 9, MCL 483.101 to 483.120, that wants to construct a plant, equipment, property, or facility for furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(c) A corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16, MCL 483.1 to 483.11, that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier for which approval is required by statute.

(2) The application required in subrule (1) of this rule must set forth, or by attached exhibits show, all of the following information:

(a) The name and address of the applicant.

(b) The city, village, or township affected.

(c) The nature of the utility service to be furnished.

(d) The municipality from which the appropriate franchise or consent has been obtained, if required, together with a true copy of the franchise or consent.

(e) A full description of the proposed new construction or extension, including the manner in which it will be constructed.

(f) The names of all utilities rendering the same type of service with which the proposed new construction or extension is likely to compete.

(g) An environmental impact assessment, or environmental impact statement if appropriate, that addresses the environmental effects of the construction or extension.

(h) Information demonstrating that the proposed construction shall comply with all applicable safety and technical standards.

(3) A utility that is classified as a respondent pursuant to R 792.10402 may participate as a party to the application proceeding without filing a petition to intervene. It may file an answer or other response to the application.

SUBPART G. DECLARATORY RULINGS

R 792.10448 Declaratory rulings.

Rule 448. (1) Any person may request a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the commission or of a rule or order of the commission,

pursuant to sections 33 and 63 of the act, MCL 24.233 and 24.263. A request for a declaratory ruling must contain, or by attached exhibits show, all of the following:

(a) A complete, accurate, and concise statement of the facts or situation upon which the request is based.

(b) A concise statement of the issues presented.

(c) Specific reference to all statutes, rules, and orders to which the request relates.

(d) An analysis by the person's legal counsel of the issues presented and a proposed conclusion, or the person's analysis of the issues presented and a proposed conclusion.

(2) The commission may require that notice of the request for declaratory ruling be provided and may require a contested case proceeding instead of issuing a declaratory ruling.

(3) The decision to issue a declaratory ruling is within the discretion of the commission and is binding only on the applicant and the commission.

PART 12: WAGE AND FRINGE BENEFIT HEARINGS

R 792.11201 Scope.

Rule 1201. The rules in this part govern proceedings before an administrative law judge under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.

R 792.11202 Definitions.

Rule 1202. As used in this part:

(a) "Appeal" means request for review.

(b) "Appellant" means a party who files an appeal.

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Determination order" means the written determination of the merits of a complaint, including violation citations, notices of violation, penalty assessments, and exemplary damage assessments, if any, issued by the department to an employee or employer pursuant to a complaint.

(e) "Director" means the director of the department.

(f) "Party" means a person admitted to participate in the hearing conducted pursuant to these rules. The employee, employer, and the department are parties to a proceeding before an administrative law judge brought under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.

(g) "Representative" means a person authorized by a party to represent that party in a proceeding.

(h) "Wage and hour program" means the agency within the department that is delegated the responsibility of investigating claims, issuing determination orders, issuing notices of violation, and representing the department in hearings held under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.

R 792.11204 Filing of documents.

Rule 1204. (1) The filing of a document, with the exception of an appeal, is effective at the time of mailing. The mailing date is presumed to be the postmark date appearing on the envelope if postage was prepaid and the envelope was properly addressed.

(2) An appeal from a determination order or notice of violation must be filed with the wage hour program and must be received within 14 days after the date of mailing of the determination or notice of violation.

R 792.11205 Late appeal; showing of good cause; hearing; determination order final.

Rule 1205. (1) Any appeal received by the department more than 14 days after the determination order or notice of violation is issued must be immediately transmitted, along with the employee claim and the determination order or notice of violation, to the hearing system.

(2) Upon receipt of a late appeal under this rule, the administrative law judge shall issue an order directing the appealing party to show good cause why the late appeal should not be dismissed and the determination order or notice of violation made final. If the administrative law judge finds good cause for the late appeal, the case proceeds to hearing. Absent such a finding, the determination order is held final.

R 792.11209 Representation at hearing.

Rule 1209. A party may be represented at a hearing and before the hearing system by an attorney or authorized representative of the party's own choosing and at the party's own expense.

PART 19: CORRECTIONS

R 792.11903 Hearing and decisions.

Rule 1903. (1) Not less than 24 hours before a formal hearing, a prisoner must receive written notice of the hearing. The notice must include all of the following:

(a) Any charges of alleged violations.

(b) A description of the circumstances giving rise to the hearing.

(c) Notice of the date of hearing.

(2) A prisoner shall set forth all of the following on the notice form:

(a) Necessary witnesses the prisoner wishes to have interviewed, if any.

(b) A request for documents specifically relevant to the issue before the administrative law judge, if any.

(c) A request for assistance of a hearing investigator to gather evidence or speak for the prisoner, if desired.

(3) A prisoner may verbally waive the 24-hour notice requirement either upon receipt of the written notice or at the hearing itself.

(4) If a prisoner fails to appear for a hearing after proper notice has been given as set forth in subrule (1) of this rule, the administrative law judge may proceed with the hearing and make a decision in the absence of the prisoner.

(5) A prisoner has all of the following rights at a formal hearing:

(a) To offer evidence, including written arguments, relevant documents, and witness statements, by making these requests to the hearing investigator at the time of the interview, or sufficiently in advance of the hearing to conduct an adequate investigation as determined by the administrative law judge.

(b) To be present and offer oral arguments on the prisoner's own behalf.

(c) To compel disclosure of evidence specifically relevant to the issue before the administrative law judge, unless the administrative law judge determines that disclosure may be dangerous to a witness or disruptive of normal prison operations. The reason for the nondisclosure must be entered into the record.

(d) To present evidence from necessary, relevant, and material witnesses, when to do so is not unduly hazardous to institutional or safety goals.

(e) To have presented to the administrative law judge the report of a hearing investigator who interviewed and obtained statements from relevant witnesses, secured relevant documents, and gathered other evidence, if a hearing investigator was requested when notice of the charges was given, unless that request is denied as set forth in subrule (7) of this rule, and if the prisoner has reasonably cooperated with the hearing investigator.

(f) To submit written questions to the hearing investigator to be asked of witnesses.

(6) If an administrative law judge denies a request made by a prisoner on the notice form provided under subrule (2) of this rule, specific reasons for the denial must be placed in the record. The presence of a witness is not necessary if the witness's testimony is repetitious or if the witness is able to provide the administrative law judge or hearing investigator with a complete written statement.

(7) A hearing investigator must be available, when necessary, to gather and present factual evidence orally or in writing at the request of either the prisoner or the administrative law judge. If the administrative law judge determines that a prisoner appears to be incapable of speaking effectively for himself or herself, the administrative law judge shall request a hearing investigator to appear and present arguments on the prisoner's behalf. The failure of a hearing investigator to present requested documents or statements is justified if to do so would be unduly hazardous to institution or safety goals or if the information is irrelevant or unnecessary to the particular case. The specific reason for such failure must be placed in the record.

(8) The administrative law judge shall render a written decision in every case. The written decision must include all of the following:

(a) The reasons for the denial of a prisoner's requests, if any.

(b) A statement of the facts found.

(c) The evidence relied on in support of the decision.

(d) A disposition of property, if applicable, in accordance with department of corrections policy.

(e) Any sanctions or orders imposed by the administrative law judge. A copy of the decision must be furnished to the prisoner.